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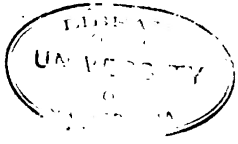
ILLUSTRATIVE OF THE REIGNS OF

ELIZABETH AND JAMES I

EDITED BY

G. W. PROTHERO, LITT.D.
HONORARY FELLOW OF KING'S COLLEGE, CAMBRIDGE

THIRD EDITION



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PREFACE TO THE FIRST EDITION.

THIS volume is intended to be a contribution towards filling up the gap between the 'Select Charters' edited by the Bishop of Oxford, and Mr S. R. Gardiner's 'Constitutional Documents of the Puritan Revolution.' Of the documents which it contains, a few of the most important, such as the Acts of Supremacy and Uniformity and the High Commission of 1559, are printed in full: the rest are given in an abbreviated form. Of the latter it is hardly necessary to say that no alteration has been made in the texts, but owing to exigencies of space certain portions have been omitted. Where the omitted passages possess any importance, and the omission is not shown by the numbering of the paragraphs, it is indicated by dots. In the case of superfluities, such as are indicated by brackets in the following phrases:—'person [and persons],' 'all [and every],' 'prescribed [and appointed],' 'shall [and may] be lawful [to and] for,' 'the same [or any of them],' 'bring [or cause to be brought],' 'be it further enacted [by the authority aforesaid],' 'provided [always and be it enacted],' '[any law statute or usage to the contrary notwithstanding],' 'he [she and they],' and the like, I have not thought it necessary to call attention to the omission. All additions to, or substitutes for, the original text are enclosed in square brackets. When a date is given in a shortened form it is similarly indicated. The spelling of the English documents has been modernized throughout.

Documents which have not, so far as I am aware, been printed before, are indicated in the Table of Contents by an *; those that have been partially printed, with an †; while such as have been printed before but are now reprinted directly from the MSS. are marked with a §.

The index is not intended to be an *index nominum* except in a few important cases, but I have taken pains by means of a full analytical *index rerum* and a glossary to make the collection as useful as I can.

Finally, I have to acknowledge, with much gratitude, the help and encouragement ungrudgingly given me by the Bishop of Oxford, the Bishop of Peterborough, Professor Maitland, Mr S. R. Gardiner, and Mr Hubert Hall of the Record Office; but I need hardly add that these gentlemen are in no way responsible for any mistakes which this book may contain.

G. W. PROTHERO.

KING'S COLLEGE, CAMBRIDGE
January 21, 1894.

PREFACE TO THE SECOND EDITION.

THIS edition differs but slightly from the former. I have modified a few sentences in the Introduction, corrected such errors as have been pointed out to me, and added three documents, viz. the opinion of the Judges on irregular imprisonments, quoted in Darnel's case (see Gardiner's *Documents*, ed. 2, p. 62); the first charter to the East India Company; and the charter which led to the foundation of Virginia. It would have been easy to print many other documents, throwing light on the ecclesiastical or the economic history of the time; but, even if want of space had not forbidden such additions, they would have been beyond the scope of this collection, as defined by its title. I have only to add that my thanks are due to Mr J. T. Tomlinson for the assistance he has given me in connexion with ecclesiastical matters in Elizabeth's reign.

G. W. P.

CAMBRIDGE,
August, 1898.

PREFACE TO THE THIRD EDITION.

In this edition, I have modified, in view of a criticism by Professor F. C. Montague, a statement in the Introduction (p. lxxiii) relative to the Act 26 Hen. VIII. 10; and I have added six documents.

The Charter (p. 461) granted to the Merchant Adventurers near the outset of Elizabeth's reign, may be usefully compared with that which established the East India Company (p. 448) at its close. It is discussed at length by Mr. W. E. Lingelbach in the *Transactions of the Royal Historical Society* (New Series), vol. xvi, p. 19 seq.; and in his *Laws and Ordinances of the Merchant Adventurers of England* (1902), where also extracts from the Charter are printed. It is also referred to by Dr. R. Ehrenberg in his *Hamburg und England im Zeitalter der Königin Elizabeth* (p. 73 seq.), and by other authors. A fresh charter, with developments mainly concerning internal government, was granted in 1586.

The series of documents bearing on Letters of Marque, or Reprisal, illustrates the system in vogue in the sixteenth century, by which covert war was made on countries with which the State was ostensibly at peace, and throws light on the manner in which the Navy was supplemented by private enterprise. The subject is referred to by Mr. R. G. Marsden (to whose kindness I owe the series) in his Introduction to *Select Pleas of the High Court of Admiralty* (Selden Society), vol. ii, and in *Transactions of the Royal Historical Society* (New Series) vol. xvi, p. 74.

The extracts from the Minute Book of the Dedham Classis throw light on the beginnings of Presbyterianism in England, against which Bancroft's book *Dangerous Positions* (see below, p. 247) was directed. They show the objects of the monthly meetings, the nature of 'prophesying,' and the rudiments

of Presbyterian discipline. The extracts are reprinted from *The Presbyterian Movement in the Reign of Elizabeth*, edited for the Royal Historical Society by R. G. Usher (Camden Society, Third Series, vol. viii, 1905).

The Commission for Depopulation (1607) throws light primarily on economic problems, but also, especially in the mode of procedure laid down, on constitutional and political matters. It followed on serious disturbances in the midlands, caused chiefly by the growth of enclosures. It is discussed by Professor E. F. Gay in the *Transactions of the Royal Historical Society* (New Series), vol. xviii, p. 195 seq.; and referred to by Miss E. M. Leonard, in the same series, vol. xix, p. 125.

To Mr. Hubert Hall, of the Record Office, I owe my best thanks for calling my attention to these documents and for supervising the transcription of those not previously printed.

G. W. P.

September, 1906.

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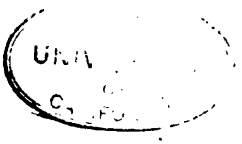

INTRODUCTION

I.

General Survey: the Monarchy and the Nation.

The Tudor monarchy attained its zenith in the reign of Queen Elizabeth. Henry VIII was more tyrannical than his younger daughter, but it does not follow that he was more firmly seated on the throne. Under him, the abuses of arbitrary power were doubtless more flagrant, and the direct influence of the royal will more obvious, while his statutory powers were in some respects larger and his financial resources, at least after the submission of the clergy and the dissolution of the monasteries, more abundant. But the Tudor monarchy, unlike most other despotisms, did not depend on gold or force, on the possession of vast estates, unlimited taxation or a standing army. It rested on the willing support of the nation at large, a support due to the deeply-rooted conviction that a strong executive was necessary to the national unity, and that, in the face of the dangers which threatened the country both at home and abroad, the sovereign must be allowed a free hand. It was this conviction, instinctively felt rather than definitely realized, which enabled Henry VIII not only to crush open rebellion but to punish the slightest signs of opposition to his will, to regulate the consciences of his subjects, and to extend the legal conception of treason to limits hitherto unknown. It was this which rendered

it possible for the ministers of Edward VI to impose a Protestant régime upon a Romanist majority, and allowed Mary to enter upon a hateful marriage and to drag the country into a disastrous war. It was this, finally, which enabled Elizabeth to choose her own line in domestic and foreign policy, to defer for thirty years the war with Spain, and to resist, almost single-handed, the pressure for further ecclesiastical change.

The Tudor monarchy was essentially a national monarchy. It was popular with the multitude, and it was actively supported by the influential classes, the nobility, the gentry, the lawyers, the merchants, who sat as members of parliament at Westminster, mustered the forces of the shire as Lords-Lieutenant, or bore the burden of local government as borough-magistrates and Justices of the Peace. Had these classes been recalcitrant, had they even been lukewarm in their support, the crown would have been practically powerless. If proof of this were required, it would be found in the fact that, while the Tudors, in spite of countless difficulties, retained their ascendency for upwards of a century, the Stewarts, who had in their hands all the despotic agencies and twice the wealth of their predecessors, lost it in one generation.

Now if this fundamental popularity may be predicated of the Tudors in general, it belonged in an especial degree to the last of the race. A strong monarchy was beneficial in the days of Henry VIII, but it was indispensable in those of Elizabeth. Henry VII had prospered, chiefly because his marriage put an end to the evils of a disputed succession. Had Elizabeth died before 1587, the disasters of the fifteenth century would inevitably have recurred. The dangers of political disorder could not in the reign of the childless queen be long absent from the minds of thinking men. No previous reign, for a century and a half before her accession, had been free from plot and rebellion, and ten years after she came to the throne the outbreak of the northern earls showed that baronial anarchy might

yet again raise its head. During Elizabeth's reign, this danger was immeasurably enhanced by religious differences. If national unity and the maintenance of law and order depended on the strength of the government in 1530, how much more was this the case a generation later, when Anglicans and Romanists nearly balanced each other, in weight if not in numbers, and when the extreme Protestant sects were introducing an element of discord unknown before the Reformation? The religious wars and massacres in France and the Netherlands, the hostile leagues of Germany, the religious animosities which distracted Scotland and Ireland—all these were warnings which no one who who was not a fanatic could disregard. Moreover, in the time of Henry VIII, the Papacy was discouraged and disorganized: in that of Elizabeth it had not only rallied but was beginning to recover its earlier position. How should the Protestants of England hope to make head against the returning tide except by submitting themselves, like an army in the field, to the stern discipline of undivided control? What had they to expect if Mary of Scotland should become, by the death of her cousin, not merely the heir but the rightful claimant of the English crown? It is difficult to over-estimate the strength conferred upon a sovereign by the consciousness that her life alone stands between her subjects and anarchy.

To these considerations was added a new fear, the fear of foreign invasion and conquest. For centuries this danger had been unknown. English armies had repeatedly invaded France, and the foreigner had been unable to retaliate except by occasional raids upon our coasts. Now, for the first time for many generations, England was exposed to great and imminent danger from abroad. No power comparable with the new monarchies of France and Spain had existed a century before. Either of them, taken singly, was more than a match for this country: had they combined their forces, English independence could hardly have survived. In the days of Elizabeth's father the chance of such a combina-

tion was hardly appreciable: in the days of Elizabeth it was not merely a chance but a probability. And here again the political danger was doubled by religious hostility. Spain was actively propagandist; France might become so at any moment. England had already learnt to her cost, in the preceding reign, what was meant by Spanish domination, and what Spain had once obtained by marriage she was only too likely to attempt by conquest. In the face of such a danger as this, it is not to be wondered at if the representatives of the nation voted without reluctance whatever taxes were required, and abstained from criticisms or demands which might have hampered some delicate combination or encouraged the enemy by the semblance of disunion.

It is needless to go beyond this to account for the ease with which Elizabeth handled the difficult machine of parliamentary government. Royal influence was, no doubt, applied to guide parliamentary elections, and to deflect the tide of debate from inconvenient channels; but there is no reason to suppose that this influence was excessive or unpopular. (The parliaments of Elizabeth were neither packed nor servile.) They had a mind of their own, and could on occasion show it. But they knew what the national interest demanded, and in supporting the crown they acted in accordance with that interest. This attitude was confirmed, as time went on, by the successes of a long and prosperous reign, by a growing confidence in the wisdom of the government, and by that chivalrous form of loyalty which encircles a woman on the throne. Elizabeth, on her side, fully understood both the sources and the limitations of her power, for, extensive as it was, it had its limitations. She was aware of the value set upon her life, but she was not misled by this knowledge into a false estimate of her position. She knew that she could not sacrifice or endanger the national interests without losing the goodwill of her people, on which alone her liberty of action depended. Her differences with her parliaments were never serious, and

this can only partially be attributed to her concessions. That she made some concessions cannot be denied, but the occasions on which she yielded are as nothing compared with those on which she stood firm. On the whole it is clear that she ruled autocratically over State and Church, over ministers and parliaments, and she could only have accomplished this by identifying her policy with the interests of the nation. Though occasionally these might appear to diverge, the conviction grew stronger year by year that, in the main, they were one. Hence a personal affection which Elizabeth was at pains to cultivate, by feminine arts as well as by imperial policy, and which was none the less genuine because it was often accompanied, according to the fashion of the day, by extravagant flattery. The depth of feeling which underlay this decorative exterior finds eloquent expression in the preamble (p. 106) to the last grant of taxes voted by parliament to the aged queen.

To sum up, the efficient causes which tended to strengthen the Tudor monarchy were especially potent during the latter half of the sixteenth century. If it is true that the Tudors were strong because they were popular, we shall probably be correct in saying that Elizabeth was stronger than any of her predecessors. It seems likely that the very violence which marked the reign of Henry VIII was, in this respect, rather a sign of weakness than of strength. If Elizabeth's yoke was lighter than that of her father, and her judgements in general less severe, it is because she could rely more confidently on the unconstrained support of her people.

These amicable relations between sovereign and subject, confirmed by the traditions of nearly half a century, were not likely to disappear immediately upon the accession of a new dynasty. In the history of the constitution no hard line can be drawn between the reigns of the last Tudor and the first Stewart. The claim of James I, based as it was on no title save that of descent, illustrated, by the force of a striking example, the general acceptance of the theory of hereditary Divine Right. Parliament hastened to recognize

the claim (p. 250) and manifested towards the new king all the signs of loyalty which it had shown towards his predecessor. Even when repeated attacks upon their privileges forced the Commons to remonstrate, the manifesto (p. 286) in which they set forth their grievances is couched in a tone of respectful apology of which Elizabeth herself could scarcely have complained. Though incapable of inspiring the devotion or attracting the admiration felt for his predecessor, James was never positively unpopular. Too wise or too timid to commit himself to distinctly illegal courses or flagrant departures from precedent, he preserved for the most part a fairly good understanding with his subjects. The pompous loquacity with which he lectured the representatives of the nation contrasts unfavourably with the curt and pointed utterances of Elizabeth, but does not appear to have been offensive to contemporaries. It is true that the notions of the prerogative set forth in his speeches and writings transcend anything claimed by the Tudors, and had to be largely reduced in practice, while the state-craft on which he prided himself met with severe rebuffs both at home and abroad. Nevertheless his intentions were good, and, though he cannot be credited with much political insight, he was capable of recognizing the impossible. On some important questions, for instance those of religious toleration and the union with Scotland, he merits the praise —if praise it is—of being in advance of his time. It is to his credit as a ruler that, when he discovered the unripeness of public opinion, he refrained from pushing his policy to a dangerous point. Although he parted from some of his parliaments in anger, the irritation was not wide-spread, and the last parliament of his reign—to which indeed he made important concessions—was also probably the most contented. In short, during the reign of James I the old system may be said, on the whole, to have held its ground. It was reserved for his son to make the irreparable breach.

But though this outward harmony was so long preserved, changes were taking place which year by year

rendered it more insecure. The circumstances of the seventeenth century were very different from those of the sixteenth. The traditions of aristocratic turbulence were falling into so remote a past as to be practically forgotten. Political power had to a large extent passed from the nobles to the gentry and the mercantile classes. The succession to the crown was no longer doubtful or dependent on a single life. In England the adherents of Rome had ceased to be formidable: they were a small and oppressed minority. The danger of a conflict between Englishmen of different religions had for the present passed away: the Papists might plot, but they could hardly rebel. There was no longer any serious danger of invasion from abroad. The union with Scotland and the suppression of rebellious chieftains in Ireland had deprived the foreigner of the power to raise up enemies at our gates. France, tolerant of dissent at home, was inclined, from clear reasons of policy, to befriend Protestants abroad. Spain, while still a great power, was no longer a source of terror, though she remained an object of hatred, to Englishmen. The ports of Holland, whence in the early days of Elizabeth a hostile armament might at any moment have descended on our coasts, were now in the hands of a people not yet engaged in serious commercial rivalry with England, and allied to this country by the bond of religious affinity. In a word, the national independence, so long in danger, was now secure. The chief motive for acquiescence in autocracy had therefore disappeared. An absolute monarchy was no longer indispensable, and the nation could safely take its fate into its own hands.

Meanwhile, apart from these changes in external conditions, the national development was making autocratic government more difficult. It was the misfortune of the Stewart kings that they inherited a system well enough adapted to a previous age, but too inelastic for their own. The very triumphs of the Tudors were fatal to their successors. To begin with, they had raised up in the national

parliament a force which during their time was a willing agent of the monarchy, but which might easily become its rival. The importance of the sixteenth century in the development of parliamentary institutions has generally been under-rated. The influence exercised by parliament over the affairs of the nation during that epoch is liable to be obscured by the vigour of the monarchy, but was nevertheless, within its sphere, not only potent but inevitable. It is true that the great statutes of the Reformation, the penal statutes, the poor laws and other great legislative changes were initiated by the government, but this should not blind us to the equally important truth, that in all these proceedings the sovereign was forced to rely upon the national council to give effect to his policy. A series of precedents confirmed the control of parliament over taxation, secured its right to accept and consequently to reject legislative proposals, and established most of its special privileges. Although the annual sessions, which had been customary under the Lancastrian kings, had long been given up, the additions to the statute-book were more copious and not less weighty than in any previous age. Parliament had, in fact, confirmed its position as an indispensable element in the State. Without the training, the prestige, and the sense of self-importance conferred upon it by a century of Tudor legislation, it could never have been styled by Pym the soul of the body politic.

In this powerful institution, fostered and developed by the Tudors for their own ends, the House of Commons came more and more to be the dominant factor. The sovereigns of the sixteenth century had done their best to elevate the gentry and the commercial classes as a counterpoise to the nobility. It was these classes which profited most by the dissolution of the monasteries and the practice of enclosures, by the expansion of trade and the successful war with Spain. They had good cause to support the rulers under whom they had made this advance, but they had no special reason to be grateful to the Stewarts. More-

over they had now for the first time become conscious of their importance. They were learning to act in concert, and discovering their ability to stand without external aid. The great council of the nation, in which all that was most prominent and energetic among them was concentrated, was passing out of tutelage and approaching its majority. It could no longer be handled as even Elizabeth had handled it. The weapon which the Tudors had used with such consummate dexterity was ready to turn in the hands of their successors.

Nor were causes wanting to induce Parliament to take up an independent attitude. The ecclesiastical policy of the Tudors contained within it a germ of danger to the monarchy. To rid themselves of the yoke of Rome, they had tolerated or encouraged the spread of Protestant doctrines. The religious movement thus induced they had used so far as served their purposes, not foreseeing that it might become as dangerous to the crown as it had been to the Papacy. The ecclesiastical system established by Elizabeth was supported by a large body of her subjects as a politic and acceptable mean between the extremes of Rome and Geneva, but by others—and these formed a rapidly increasing party—it was regarded as an obstacle to truth, as an attempt to check the Reformation half-way. In their view, the Anglican system contained so much that was objectionable in ritual and government, if not in doctrine, as to be little preferable to that of Rome. Hence the vestiarian controversy, followed by attacks upon the bishops, their courts and their officials, and by the development of Presbyterian and Independent opinions. Elizabeth had some difficulty in stemming the tide, and its force grew largely after her death. Against these attacks the Church, alarmed for its existence, adopted severer measures of repression, and drew upon itself political hostility by exalting the prerogative behind which it hoped to find shelter. The split grew daily wider, the non-conformist party more clamorous. The [illegible]l-contents obtained

a majority in the House of Commons, and took every opportunity of pressing their demands upon the crown. Thus the dawn of self-consciousness in Parliament and the growing capacity for initiative coincided with the appearance of a potent reason for self-assertion.

The quarrel about ceremonies and church-government was closely connected with the still more momentous question of unparliamentary taxation. Sooner or later, no doubt, this question would have come to the front, but under other conditions it might long have slumbered. The national wealth was growing fast, and so long as there was no grave dispute between king and people, Parliament was unlikely to grudge some additional revenue to the crown. The method of collecting it by indirect taxation was sanctioned by Tudor precedents, and was one for which from a legal, as well as an economical point of view, much was to be said. But should any dispute arise, the latitude hitherto allowed to the crown was sure to be called in question, for, apart from the impeachment of ministers—an expedient which disuse had rendered well-nigh obsolete—a refusal of supplies was the only lever by which pressure could be brought to bear upon the government. It was therefore a heavy blow when, just as Parliament was beginning to need this weapon, it was struck from its hands by the action of the law-courts. If the law was what the judges declared it to be, there was all the more reason for Parliament to bestir itself. Once raised, the question of indirect taxation could not be left unsettled, and the whole force of religious feeling came into the field to support the contention of the popular party. Unfortunately, this very force, by combining religious and political demands, rendered an agreement almost impossible.

The decision of the judges in Bates' case (p. 340) did not affect indirect taxation alone, but raised far wider issues. Feeling their legal position insecure, the judges were driven to invent or to support a theory of the prerogative which threatened to subordinate law and Parliament to the crown,

and to destroy the ancient basis of harmonious co-operation. The far-reaching consequences of this theory were soon perceived, and pressed upon the notice of Parliament (p. 350). Long before Hobbes had formulated his defence of absolutism, the philosophical notion of indivisible sovereignty emerged, if at first but dimly, into the field of practical politics (p. 352), and was interpreted by lawyers and politicians in opposing senses. A question was in this way raised which went to the roots of government and was not settled till the Revolution. Thus, during the early years of James I's reign, the religious and political questions became inextricably involved, and each, while it embittered the conflict, hampered the settlement of the other.

At this juncture, events of first-rate importance took place on the continent, which increased the difficulty, already very great, of coming to an understanding. The fears and suspicions of all earnest Protestants were aggravated tenfold by the outbreak of the Thirty Years' War. A coalition, not indeed so dangerous to England as a league between France and Spain would have been in the previous century, but equally dangerous to European Protestantism, sprang into existence. With France in difficulties at home, an offensive alliance between the two branches of the house of Hapsburg threatened to undo all the work of the Reformation in Germany. The German Protestants once subdued, and the Emperor's authority re-established, an attack on Holland and the northern powers would probably follow. In the face of such a risk, the neutrality of England appeared not only irreligious but impolitic in the highest degree. And yet the government, far from throwing itself energetically into the conflict, wasted time in fruitless diplomacy, and even entered upon negotiations for a matrimonial alliance with the arch-enemy, Spain. The purport of these intrigues was but dimly known, but enough leaked out to inspire the greatest anxiety. The religious feelings aroused by these events induced Parliament to take another step in advance.

The lever of financial control, already applied to enforce ecclesiastical reform at home, was now employed to press upon the government a definite policy abroad. Partly through a natural reluctance to incur pecuniary responsibility, partly from a sense of its own unfitness to deal with the complexities of foreign affairs, Parliament had hitherto abstained from interference in the relations of the state with foreign powers. Along with the control of the military and naval forces, the conduct of these relations was regarded as within the special province of the crown. But the dangers to which Protestantism was now exposed, coupled no doubt with the prospect of commercial and colonial gain at the expense of their ancient enemy, led the representatives of the nation to depart once for all from this attitude of reserve. They now demanded nothing less than a decisive voice in the conduct of foreign affairs. The step thus taken involved the House of Commons in the most serious quarrel with the monarchy that had yet occurred. The 'fiery and popular spirits' (p. 310), who ventured to discuss matters of state, religion and foreign policy, applied their privilege of free speech to uses hitherto unknown, and refused to be silenced at the bidding of the crown. When James tore their protest from the journals of the House (p. 313), he called in question the most essential liberties of Parliament and threatened its very existence as a free assembly. Circumstances, however, were too strong for him, and the failure of his foreign diplomacy compelled him to yield. The control thus gained, if it was to become effective, involved of necessity a voice in the application of public funds. The negative right of refusing taxes was a very inadequate method of giving a positive direction to foreign policy. Hence the adoption of the system afterwards known as appropriation of supply (p. 278). This momentous change had hardly taken place when James I died. Its importance was recognized by his son, but Charles, failing to perceive that it was inevitable, set himself to recall his father's concessions and to drive Parliament from the position it

had won. The effort proved fatal to him and to his house.

Such then is the connexion between the Tudor and the Stewart periods, and especially between the reigns of Elizabeth and James I. We shall hardly understand the Tudor system if we confine our inspection to the days of its splendour. It is only by studying its fate under the Stewarts that we can fully grasp its chief peculiarity, the essentially popular basis on which it stood. On the other hand, the policy of the Stewarts will be unfairly estimated, and the deeper reasons of their failure will be missed, unless we examine their conduct by the light of Tudor history. To the Tudor despotism the nation, as a whole, was a consenting party, because the sovereigns of that line protected its higher interests and in the long run gave effect to its wishes. It resisted and finally overthrew the despotism of the Stuarts, not because it believed an autocratic system to be intrinsically bad, but because under the new régime it was misapplied. In any case the Tudor methods of government must eventually have been relinquished, for the nation had outgrown the tutelary stage. But great political changes are rarely, if ever, demanded by large masses of men as ends in themselves. Power is only coveted by a class or a nation, as a means for securing its interests, be they spiritual or material. Had the Stewarts been far-seeing statesmen, the political change might have been long deferred, and despotism might have been almost insensibly metamorphosed into constitutional monarchy. Unfortunately the rulers were blind to the national development and its inevitable results, while they were led by circumstances and their personal predilections into a position of hostility to the national will. They can hardly be blamed for standing on their rights, for, so far as their main contention was concerned, law was in a manner on their side. Their fault lay in abusing these rights, in supporting the abuse by straining the law and perverting custom, and in ignoring the fact that rights, so abused and so defended, cannot be

maintained. Thus, instead of leading a gradual and peaceful evolution, they hurried on a violent collision, which, from the very nature of their power as explained above, could not but be fatal to them in the end.

II.

Church and State.

On a superficial view of constitutional affairs during the reigns of Elizabeth and James I, we are at once struck by the great political importance of religious and ecclesiastical questions. A fuller examination only confirms this impression. In England, as well as on the continent, religion was the chief motive power of the age. If we would understand the general progress of the nation, the development of political ideas, the limitations placed upon public and private liberty, the mutual attitude of crown and Parliament, we must enquire somewhat minutely into the relations of Church and State, the laws and institutions by which these relations were governed and defined, and the opinions held at different times by the different religious parties.

The ecclesiastical system as settled by Elizabeth and maintained by James I was based upon the Acts of Supremacy and Uniformity (1 Eliz. 1 and 2). All that followed, for more than a century, was built on this foundation, for, setting aside the revolutionary epoch of the Long Parliament and the Commonwealth, there was no departure from the lines which Elizabeth had laid down until they were modified by the Act of Toleration (1689).

The Act of Supremacy regards the ecclesiastical changes of Henry VIII as effecting not so much a revolution as a restoration. The statutes of the period 1529–1536 had 'restored' to the crown 'the ancient jurisdictions' which of right belonged to it, and had relieved the nation from an 'usurped foreign authority' (§ 1). The rights so recovered had been resigned by Mary. The Act of Supremacy there-

fore restores to the crown its twice-lost authority, and frees the nation a second time from the 'bondage' into which it had fallen. It repeals the reactionary legislation of Mary and revives the anti-papal statutes of Henry VIII. It sweeps away all foreign authority, spiritual and temporal, and it vests in the crown for ever the supreme power over the national church. But it is careful to draw the limits of the power thus given. It does not restore the title of 'supreme head' conferred upon Henry VIII, nor does it revive those statutes (e. g. 32 Henry VIII. 26; 34 & 35 Henry VIII. 1) which may almost be said to have endowed him with the authority of Pope and Council combined. The supremacy vested in the crown is such as 'by any spiritual or ecclesiastical power or authority hath heretofore been or may lawfully be exercised.' The large and various purposes for which it may be used are defined in § 8.

Further, while conferring upon the crown the right to delegate its authority to commissioners, it limits their control over religion, for it lays down (§ 20) that they shall not have power to condemn as heresy anything not so declared by scripture, general councils, or Act of Parliament passed with the consent of Convocation. The supremacy is declared by Elizabeth herself (p. 189) not to involve the right of exercising strictly spiritual functions, and is explained as simply conferring 'the sovereignty over all persons,' lay and clerical, born within her realm. It is still more clearly defined by Art. 37 of the Thirty-Nine Articles.

The authority of the sovereign thus recognized, precautions are taken to render it secure. The Act imposes a declaratory oath, known as the 'oath of supremacy' (§ 9), upon all ecclesiastics and all persons holding office under the crown, and it inflicts (§ 14) upon all who may persist in supporting 'the authority of any foreign prince or prelate' penalties culminating in forfeiture and death.

While thus throwing off the yoke of Rome, Parliament had no notion of introducing religious toleration. In this

respect it only shared the common opinion of the time. It was not believed, in England or elsewhere, that freedom of religion could be allowed without imperilling the unity of the State and undermining political authority. The next step therefore was to authorize a certain form of public worship and to prohibit all others. The Act of Uniformity, after repealing (§ 1) the statute of Mary which cancelled the second prayer-book of Edward VI, revives that book, with certain modifications, and (§ 2) enjoins its use throughout the kingdom. Any minister declining to use in his church the form prescribed, or using any other, is to be severely punished, and for his third offence to suffer deprivation and imprisonment for life.

So far, the act only concerns the ministers of the Church, but its provisions are not confined to the ministry. Heavy penalties are threatened (§ 3) against any one 'depraving' the book of common prayer or hindering its use, while a general conformity is enforced by the infliction of a fine on all who refuse to go to church. The duty of executing these provisions is specially laid upon the bishops and their subordinates (§§ 4, 6, 11), but is also entrusted to the judges and other lay officials (§§ 5, 10).

The scope of these two fundamental statutes was, then, both political and religious, but their primary aim was political. They were intended to abolish the *imperium in imperio* which the church had formerly enjoyed, and to make the crown supreme within its own dominions. The enemy against whom they were originally directed was Rome, but Protestants ultimately felt their force almost as much as Papists. The Anglican establishment eventually stood between two fires: it had to face the Romanists on one side, the Puritans on the other, and both parties, in attacking the Church, came into collision with the ecclesiastical supremacy. But the forces with which these two attacks were combated were essentially dissimilar. Parliament was eager to support the crown in its struggle with Rome, and neither Elizabeth nor James I found any difficulty

in persuading that body to pass acts of excessive severity against Jesuits and popish recusants. The penalties and disabilities imposed upon Romanists were therefore, in the main, the direct result of parliamentary legislation, and had the statute-law been strictly executed, a Papist could hardly have remained in the country.

But the crown could not place equal reliance on Parliament in its struggle with Puritanism. As the principles of the Reformation gained ground, its more advanced and active adherents naturally made their influence felt in the representative assembly. Before long it became not only impossible to legislate against Puritanism, but difficult to prevent legislation in its favour. The attitude of Parliament reflected the general feeling of the country. Justices of the peace and other lay officials, while ready enough to persecute a popish recusant, were disinclined to put forth the vigour of the law, even where it could be applied, against Protestants, whom, however misguided and contentious, they were bound, on the whole, to regard as friends. Consequently the campaign against the Protestant non-conformists was left to be carried on by the bishops, the ecclesiastical courts, and the clerical officials.

This double conflict is the central fact of the period under review, but before we are in a position to trace its history, we must consider, first, what powers were involved in the ecclesiastical supremacy now recognized by statute as belonging to the crown; secondly, what steps were taken to give greater definiteness to the general regulations laid down by the Act of Uniformity concerning the doctrine and government of the Church; and lastly, what special machinery was created to carry these regulations into effect.

(a) *The Ecclesiastical Supremacy.*

The ecclesiastical supremacy of the crown implied the right of visitation and the correction of abuses, with a control over ecclesiastical legislation and taxation which was to

some extent shared with Parliament, and a control over appointments to high offices in the Church and over the church-courts which was not similarly limited.

The general right of Parliament to legislate for the Church, subject, as in other departments of legislation, to the royal assent, was no new matter. The right was repeatedly exercised both before and during the Tudor period. With regard to Church government, the powers of Parliament were, after the Reformation, limited only by theories concerning the relations of Church and State, but in the definition of doctrine the Act of Supremacy itself recognized a limitation, and (§ 20) expressly reserved the right of the clergy to assent. This right was upheld by Elizabeth on more than one occasion, though probably only with a view to the maintenance of her own influence. In 1572 she even extended it so far as to prohibit the introduction of ecclesiastical bills unless the sanction of the bishops had been previously obtained (p. 120). Apart from this statutory limitation, the power of Parliament to initiate ecclesiastical legislation was closely restricted by the royal will. Elizabeth regarded any unauthorized attempts in this direction as invasions of the ecclesiastical supremacy, and on more than one occasion, notably in 1593 (p. 125), nipped them in the bud. She was not unwilling to receive petitions on the subject, but plainly informed Parliament (pp. 209, 210) that its interference, unless requested, was superfluous. This policy was maintained by James to the best of his power.

Convocation, the legislative assembly of the Church, sat in two divisions, in the provinces of Canterbury and York. It met on receiving a summons from the crown, drawn up in ancient form (p. 190), and its sittings were coincident with those of Parliament. In accordance with the submission of the clergy (1532) and the Act of 1534 (25 Hen. VIII. 19), revived by the Act of Supremacy, its canons were only valid on receiving the royal assent. This right of veto is distinctly reserved in the royal licence to meet and confer (p. 417). Even the subjects of discussion were indicated by

the crown (p. 419). Many of the canons passed by Convocation in Elizabeth's reign were honest attempts to remedy abuses in the Church: others aimed at the maintenance of uniformity among ministers. Such are the canons of 1571, 1585, and 1597 (pp. 200, 222, 226), but of these only the last received the full sanction of the crown. So long as the clergy confined their legislation to themselves, Parliament does not appear to have made any effort to claim control, and such a claim would probably have been disregarded in the days of Elizabeth. But when, in 1604, Convocation drew up a code of ecclesiastical law (p. 444) which received the royal sanction, and which among other sweeping enactments, placed under the ban of excommunication all persons, whether lay or spiritual, who should question the orthodoxy of the Prayer Book and the Thirty-nine Articles, it seemed high time to interfere. In the session of 1606 a bill was introduced to invalidate all canons affecting the life, liberty, or property of laymen, which had not received the assent of Parliament. The bill was, however, lost in the Upper House, and Convocation remained legally subject to royal authority alone. The temporal judges have, nevertheless, always refused to recognize canons affecting laymen, unless they have received parliamentary sanction.

The regular ecclesiastical revenue of the crown was derived from the first-fruits and tenths, which had been transferred to it in 1534 (26 Hen. VIII. 3), and, having been surrendered by Mary, were restored to Elizabeth in 1559 (1 Eliz. 4). This revenue, consisting of the first year's income on promotion to a benefice, and a tenth of the yearly income of all benefices above a certain value, was calculated, in the reign of James I, as amounting to about £15,000 a year. Extraordinary taxes, called subsidies, were voted by Convocation when required. In making this grant, Convocation followed the lead of Parliament (see below, p. lxxxii), that is, when the laity voted one or more subsidies, the clergy usually (but not always) voted a similar number. The tax varied from 4*s.* to 6*s.* in the pound, with remission

on account of the annual tenth and a limit of income below which no tax was exacted. The payments were usually spread over a term of years. The archbishops and bishops, or, if the see were vacant, the dean and chapter acted as collectors in their own dioceses. The grant so made was embodied in a separate statute (e. g. 5 Eliz. 29, p. 54) which recognized parliamentary control over taxation and enabled the crown to exercise legal compulsion in the collection of the tax. Occasionally (e.g. in 1587, p. 137) Convocation voted a benevolence in addition to the subsidy, which the queen (p. 138) authorized the bishops and others to collect in whatever way should be determined by themselves. On some occasions, when a benevolence was demanded (e. g. 1622, pp. 359, 360), the bishops fixed the proportion to be given, and wrote letters for its collection. For military purposes the clerical contributions were fixed at the same proportions as those usual in the case of the laity (see below, § VI, Army and Navy).

The control which the Pope had long exercised, in spite of the Statutes of Provisors, over ecclesiastical appointments, was swept away by the Reformation. An Act of 1534 (25 Hen. VIII. 20) made the crown virtually supreme, by establishing, or rather restoring, the system known as that of the *congé d'élire*. Edward VI substituted (1 Ed. VI. 2) for this process the direct appointment by letters patent, but the Act of Supremacy (§ 2) revived the earlier method. Its action is exemplified by the documents printed on pp. 242–244. It resulted in the complete subordination of the higher clergy to the crown, and strengthened the influence which the monarchy naturally exercised over the House of Lords. It should be remembered that in the reign of Elizabeth the spiritual peers numbered nearly a third of the upper house.

The judicial subordination of the clergy depends, on the one hand, on the degree of their subjection to the temporal courts, and, on the other, on the control exercised by the crown over the spiritual courts. The judicial immunities of

the clergy, limited by a statute of 1489 (4 Hen. VII. 13), were further curtailed by several Acts of Henry VIII's reign. During the period under review, benefit of clergy was taken away from various classes of offenders, e.g. by the statutes 8 Eliz. 4, 18 Eliz. 7, and 1 Jac. I. 8, while many other acts contained clauses prohibiting its use. But it remained for two centuries longer a legal plea in cases not specially excepted, and was not finally abolished till 1827. It may be mentioned in this connexion that the privilege of sanctuary, limited or regulated by several statutes passed under Henry VIII, was done away with in 1624 (21 & 22 Jac. I. 28).

The jurisdiction of the episcopal and other ordinary ecclesiastical courts was reserved not only by the Act of Uniformity (§§ 4, 11), but also by other statutes (e.g. 13 Eliz. 12. § 2). These courts took cognizance of temporal as well as spiritual causes and offences, of matrimonial and testamentary cases, of perjury and sacrilege, as well as heresy and immorality. Their sanctions consisted of censure and excommunication, the latter being followed by imprisonment at the hands of the temporal authorities and by civil disabilities of a serious nature. In cases of heresy, the condemnation of the church courts might entail the penalty of death, a penalty occasionally inflicted during this period; but this and other corporal punishments could only be executed by the aid of the temporal power. The writs issued by the ecclesiastical courts did not run in the king's name, for the statute of 1547 (1 Ed. VI. 2), which enacted that they should do so, was repealed by Mary and not revived by Elizabeth[1]. But from these courts there lay an appeal to a tribunal over which the Church had no control, while their ordinary jurisdiction was, until 1641, to a certain extent superseded, or at least concurrently exercised, by the High Commission.

The supreme appellate jurisdiction of the crown in eccle-

[1] This seems to have been the opinion of the Judges in 1637. But Mary's repealing statute was itself repealed by 1 Jac. I. 25, § 8 (below, p. 255).

siastical matters was exercised through a court commonly called the High Court of Delegates. This tribunal was originally established in 1534, under the statute 25 Hen. VIII. 19, to take over the jurisdiction of which that Act deprived the Court of Rome. It was abolished by Mary, but revived by Elizabeth (1 Eliz. 1. § 2), and thenceforward continued to act until, in 1833, its powers were transferred to the Judicial Committee of the Privy Council. It heard appeals from the higher ecclesiastical courts, exclusive of the High Commission, on application to the king in Chancery[1]. Its composition and its sittings were irregular, for its members were only nominated for each occasion as it arose, and although it discharged useful functions during a period of nearly three centuries, it did not possess much political or constitutional significance.

(b) *Definition of Doctrine and Ritual.*

The national religion and the rules for the conduct of public worship were fixed in the Act of Uniformity, by reference to an authoritative formula. But, to avoid disputes, more exactitude in both respects was necessary, for the Prayer-Book left not a few points uncertain. The further definition of doctrine was accomplished in the Thirty-nine Articles of Religion, based on those of Edward VI, but promulgated with more attention to legality. They were discussed and accepted by Convocation in 1562, but had to wait nine years before they received parliamentary recognition. An Act of 1571 (13 Eliz. 12) imposed subscription to such of these articles as 'concern the confession of the true Christian faith and the doctrine of the sacraments' on all ministers ordained according to any ritual other than that sanctioned under Edward VI or Elizabeth, and on all clergy before admission to a benefice with cure of souls. All candidates for holy orders were 'to profess the doctrine' embodied in these articles, and any beneficed clergyman

[1] Report of the Ecclesiastical Courts Commission (1883), Part III.

teaching contrary doctrines might be deprived. The articles so sanctioned have ever since been recognized as containing 'the true doctrine of the Church of England agreeable to God's word.' The so-called Lambeth Articles, issued by Whitgift and others in 1595 (p. 226), however interesting as showing the tendency to Calvinism which at that time prevailed even among the leading divines of the Church, had no authority and produced no modification in the national profession of belief.

With regard to public worship, the queen's proclamation issued in 1558 (p. 183) merely laid down certain general restrictive regulations. Fuller instructions touching rights and ceremonies, preaching, vestments, and the duties of ministers in general, were given in the Injunctions of 1559 (p. 184). This ordinance is of a somewhat heterogeneous character, and contains among other things a grudging recognition of the marriage of the clergy; but clerical marriages were not legalised by statute till 1604 (1 Jac. I. 25). A few years after the appearance of the Injunctions, Archbishop Parker issued his Advertisements (p. 191), a series of supplementary orders intended to produce greater uniformity in doctrine and ceremonial. Being set forth with the sanction of the bishops who were on the High Commission, they might claim to be based, if only indirectly, on the royal authority. Their provisions, so far at least as concerned the ordination of ministers and their licence to discharge ecclesiastical functions, were rendered more stringent by Whitgift, who issued his Articles (p. 211) in 1583. Under this edict, every minister was obliged not only to use the Prayer-Book and to subscribe to the Thirty-nine Articles, but also to declare his belief that the whole of the Prayer-Book and all the Articles, without exception, were in accordance with the word of God. These regulations made demands upon the Puritan conscience which exceeded the limits fixed by the queen or by Parliament. Whitgift, indeed, might have pleaded that they did not, in respect to the Thirty-nine Articles, go beyond the canon of 1571

(p. 201); but if this canon, which is somewhat vaguely worded, is to be taken as insisting on subscription to all the Articles, it does not appear to have been strictly enforced till Whitgift's day. The opposition provoked by the archbishop's regulations and his uncompromising efforts to enforce their observance brought many troubles upon the Church and upon the country at large.

(c) *The High Commission.*

The special machinery created for the maintenance of the ecclesiastical supremacy and of the doctrines and regulations described above, consisted in the Court of High Commission, or, as we ought rather to call it, the group of courts held by virtue of royal commissions issued under the Act of Supremacy. It is not too much to say that these courts were among the most efficient causes of the quarrel between the monarchy and the nation, which culminated in the rebellion of 1642. The institution was not immediately connected with that rebellion, for it had been swept away in the previous year, but it was one of the chief sources of that hostility towards the Church which underlay the whole quarrel, and made a reconciliation in 1642 impossible.

Henry VIII was empowered by statute (31 Hen. VIII. 14 and 32 Hen. VIII. 15) to nominate commissioners to enquire into and punish heresy. Such commissions were actually issued by Edward VI and Mary, but the Court of High Commission in its permanent form dates from the first year of the reign of Elizabeth. The queen and her successors were empowered by the Act of Supremacy (§ 8) to nominate commissioners who should exercise ecclesiastical jurisdiction under the crown, with power to correct and amend all errors, abuses, and offences 'which by any manner of spiritual or ecclesiastical power may lawfully be corrected or amended.' Elizabeth lost no time in availing herself of these powers. In July, 1559, she issued a commission

(p. 227) to Parker, Archbishop nominate of Canterbury, Grindal, Bishop nominate of London, and seventeen others, mostly laymen, authorizing them to act as a high ecclesiastical court for the whole kingdom. Six commissioners might act for the whole body, but seven persons were named, of whom one must always be present. The first duty of the commissioners was to maintain the Acts of Supremacy and Uniformity, and wide general powers were given them for this purpose. They were also to punish disturbers of public worship and absentees from church, to suppress vagrants and quarrelsome persons in or near London, to reinstate ministers deprived of their livings on account of religion or marriage, and to deal with immorality and other ecclesiastical offences. They were authorized to enquire into these matters with or without the aid of a jury, or by any other means that might appear expedient. They might compel attendance on mere suspicion, examine any one, whether accused or witness, on oath, and punish offenders or contumacious persons by fine or imprisonment. All the most important powers of the court, including that of administering the oath 'ex officio,' afterwards so fruitful a source of complaint, appear in this first commission. The commissions that followed were more or less closely modelled upon it.

Three years later, when the vacant sees had been filled up, a new commission (p. 232) was issued, including two more bishops, and raising the whole number of commissioners to twenty-seven. At the same time the minimum number authorized to act was reduced to three, and this minimum was henceforward retained. The powers of the commissioners remained as before, with two additions. A statute of 1559 (1 Eliz. 22, p. 36) had empowered the queen to make statutes for cathedral and collegiate churches and schools. This power was now delegated (§ 15) to the commissioners. They were also authorized (§ 16) to administer the oath of supremacy to all ecclesiastics, a special quorum of bishops being named for this purpose. In 1572

a third commission (p. 235) increased the number of the commissioners to seventy, including eight bishops, and introduced certain modifications of procedure, but added no fresh powers.

More important alterations were made in the commission of 1576 (p. 237), issued, on the death of Parker, to the new archbishop, Grindal, and seventy-two others. The power to act as a sort of justice of the peace in or near London, exercised under § 7 of the commission of 1559 and later commissions, was now taken away. The power to reinstate deprived ministers was dropped, probably as no longer necessary. On the other hand, the commissioners were now entrusted with the execution not only of the Acts of Supremacy and Uniformity, but also of the Acts of 1563 and 1571 (5 Eliz. 1; 13 Eliz. 12). In accordance with these acts, they were empowered (§ 16) to administer the oath of supremacy to others besides ecclesiastics, and (§ 6) to deprive any beneficed clergy who should persist in maintaining doctrines contrary to the Articles of Religion. Further, they were authorized (§ 11) to enlist the aid of justices of the peace and other officials in apprehending and bringing before them any persons whose presence might be required; while to give greater force to their proceedings, they were ordered (§ 18) to use a seal.

On the death of Grindal in 1583 a fifth commission was issued. Unfortunately this commission was not enrolled like the others, and no copies seem to be preserved, but it is probable that it did not differ materially from that of 1576. The last commission of Elizabeth's reign, that of 1601 (p. 240), is almost identical with that issued to Grindal, and Whitgift is unlikely to have surrendered in 1601 any powers granted at his accession. This view is borne out by the abstract given in Neal's *History of the Puritans* (i. 330). A list of the commissioners of 1583 is extant, from which it appears that their numbers were reduced to forty-four, a figure only slightly increased in 1601. It is true that under Whitgift the commission was more active and effi-

cient than before, but this change was apparently due not to any additional powers but to the energetic and uncompromising character of its new head [1].

The first two general commissions of James I's reign, issued in 1605 and 1608, follow almost exactly the example set in 1601. Not so the commission of 1611, in which some changes of considerable importance appear. In the year 1610 Parliament presented a petition (p. 302) in which, among other grievances, the Court of High Commission was vigorously attacked. Complaints had already, it would seem, reached James' ears, and he had shown himself not averse from hearing them (p. 295), provided that extreme measures were not attempted. Among the charges now made against the court, the most important were that in inflicting fine and imprisonment it exceeded its legal powers, that for slight offences men were cited at great inconvenience from remote parts of the country, that the court could inflict both spiritual and temporal penalties, that there was no appeal from its decisions, and that by means of the oath 'ex officio' it forced the accused to convict himself. It was therefore craved that the powers of the court might be reduced to more reasonable limits by Act of Parliament. The king, in his answer to the petition (*Parl. Hist.*, i. 1137), promised certain reforms, but the changes actually introduced must have fallen far short of parliamentary expectations.

The death of Bancroft in 1611 gave, as usual, the opportunity for a new commission. The commission (p. 424) issued to Archbishop Abbot and eight-nine others showed little inclination on the part of the crown to accede to the views expressed by Parliament. It is drawn on lines which differ considerably from those of previous commissions, but the difference is not in the direction of any curtailment of powers. After setting forth the intention of the Act of Supremacy that the commissions issued under it should be

[1] Hallam (*Const. Hist.*, i. 200), who follows Neal (*Hist. of the Puritans*, i. 330), is not to be trusted here.

modified from time to time, it proceeds to sum up in one long clause (§ 3) the general powers to be exercised by the commissioners, including several not expressly granted or not so clearly stated before. Special mention is made of the powers of the commissioners to examine accused persons upon oath and to suppress 'unlawful conventicles.' They are to punish the celebration of the mass and similar offences, as well as abuses in ecclesiastical judges or other officers of the spiritual courts. They are further empowered (§§ 5, 6, 19) to carry out the provisions of the Acts of 1585 and 1593 (27 Eliz. 2; 35 Eliz. 2) against popish priests and recusants, to imprison (§ 11) persons who refuse to answer upon oath, and (§ 18) to seize children sent over-seas to be educated in Romanism, while in various other directions their authority is developed and expanded. On the other hand, two limitations were introduced. No final sentence was to be given without the assent of five or more commissioners (§ 25), and a clause (§ 27) was added allowing any person sentenced by the court to supplicate the king for a commission of review. The provision for trial by jury, which had not been put in practice for many years, was omitted. On the whole the new commission, while making some concessions, must be regarded as expressing a deliberate rejection of the parliamentary demands.

On the model thus laid down the later commissions of James' reign were moulded. That of 1613 empowered the commissioners (p. 428) to carry out the Star-Chamber decrees (pp. 168, 169) touching the censorship of the press, and added three important clauses (pp. 431–433) authorizing them to hear complaints by wives against their husbands, and to assign a maintenance to the former at discretion, thus confirming, in the teeth of a parliamentary remonstrance (p. 305), a practice already established by the court. Another commission, issued in 1620, follows exactly that of 1613. James' last commission, issued in 1625, is identical with the two immediately preceding, except in the addition of a clause (p. 435) providing that, during the sessions of

Convocation, the commission should be executed by the bishops in Convocation, and by them only. This clause, which (when in working) deprived laymen of all share in the proceedings of the court and was therefore likely to be very unpopular, was dropped in the commissions of Charles I, but the advantage thus gained was balanced by the omission of the clause providing for a commission of review. In other respects Charles' commissions may be said to approach more nearly than his father's to the Elizabethan model.

Although the commissions of Elizabeth described above empowered the commissioners to act throughout all England, it would seem that their jurisdiction was practically confined to the province of Canterbury. There is evidence to show that during at all events the greater part of the period 1559–1640 a northern commission was sitting at York, Durham, Ripon, or elsewhere, and discharging functions analogous to those discharged by the southern commission at Lambeth, Fulham, Croydon, or Canterbury. The commissions issued to the Archbishop of York and his colleagues are in some respects not quite so extensive as those issued for the southern province—for instance, the power to make statutes for cathedrals and schools is omitted—but, in respect of the general powers, the York commissions are practically identical with those of Canterbury. Similar commissions were occasionally issued by Elizabeth to the Archbishop of Armagh and others for the kingdom of Ireland; Wales, being included in the province of Canterbury, did not generally require a separate commission. The Welsh commission of 1579 (p. 241) is peculiar in form, and was probably exceptional. During the reign of James I, Ireland and Wales were expressly included in the Canterbury commissions, and separate commissions for those countries do not, apparently, recur.

Another group of commissions consists of those issued for various dioceses, as occasion required. These diocesan commissions are not infrequent during the reign of Elizabeth and the early years of James I, but they appear to have

ceased after the year 1606, and in 1610 the king promised that they should not be renewed. While they lasted, they discharged duties similar to those ordinarily discharged by the provincial commissions, but their area of jurisdiction was limited and their duration temporary.

The efficiency of the system thus established, and the general results produced, depended mainly on the views and characters of the archbishops and their episcopal colleagues, on whom fell almost all the burden of carrying the commission into effect. The institution does not appear to have been disliked at first. So long as the chief danger to the Church came from Rome, the energies of the commissioners were mainly exerted in this direction, and they could be active without becoming unpopular. From such records of their proceedings as are extant, it may be gathered that a large part of their work consisted in the correction of immorality, neglect of duty and other abuses among the clergy, while some attention was paid to flagrant cases of vice among the laity. Activity in the former direction was likely to meet with general approval, while in the latter, if resented by individuals, it could hardly be openly opposed. But when the conflict between Anglicanism and Puritanism became acute, and the commissioners began to apply their large and somewhat indefinite powers to enforce religious conformity, they met with increasing resistance. The opposition came not only from individuals, who refused to take the oath 'ex officio' and to submit to the minute examination which it entailed, but also from the law-courts, which issued prohibitions against the further proceedings of the commissioners or released their prisoners by means of writs of 'Habeas Corpus' (p. 407). The cases of Cawdrey (a Puritan minister) in 1587, and of Ladd and Fuller (both laymen) in 1607, may be mentioned as attracting universal attention and provoking injurious comment throughout the country. Even Lord Burghley told Whitgift that his proceedings 'savoured of the Roman Inquisition,' and the archbishop's retort, that the methods of the Star-Chamber

were no better, was but a poor defence. The great lawyer Coke condemned the proceedings of the High Commission on strictly legal grounds, and his arguments (p. 404) supplied the Long Parliament with formal reasons for abolishing it in 1641. But the reasons stated in the act of abolition were not those which moved the nation at large. The institution was generally condemned, not so much because it was illegal, as because it exercised a tyrannical control over the freedom of religious belief and practice.

(d) *The Penal Laws and the Romanists.*

The conflict with Rome, in its origin historically prior to that of the conflict with Puritanism, is naturally the first to be considered. The Act of Supremacy, while repudiating in no doubtful language the Papal authority, was not, either in the nature of its provisions or in regard to the number of persons whom it directly affected, a sweeping or tyrannical act. In the face of foreign complications and domestic uncertainty, Elizabeth was obliged at first to proceed with caution. She hesitated to challenge the Pope and the King of Spain to mortal combat until she was sure of national support, while they on their side were not without hopes of a reconciliation. But within a few years of her accession, the guarded and tentative attitude of the Queen gave way to a more decided policy. Hence the Act of 1563 (5 Eliz. 1, p. 39), by which the provisions of the Act of Supremacy were extended and its penalties rendered more stringent. Several classes of persons, including members of the House of Commons, hitherto exempted, were now compelled to take the oath of supremacy, and a second refusal was to be punished as high treason. About the year 1569, the conflict entered on a more acute stage. Mary, Queen of Scots, was now in England, and the rebellion of the Northern Earls, combined with the Ridolfi plot, brought to light the dangers to which her presence gave rise. The issue of the Bull (p. 195), in which Pius V excommunicated and deposed

the queen, justified strong measures of retaliation. In 1571 Parliament passed two Acts (13 Eliz. 1 and 2), the one confirming the queen's title and inflicting the penalty of high treason on any one who should attempt to deprive her of it, the other forbidding under similar penalties the introduction of bulls from Rome or the absolution of any of the queen's subjects from their due allegiance. The combined effect of the Papal bull and these statutes was to render the quarrel irreconcilable. It was henceforward impossible for any one to be at once a good Roman Catholic and a good subject. Next year the trial (p. 138) and execution of the Duke of Norfolk and the Earl of Northumberland showed that the government intended to keep its word, and foreshadowed the fate in store for their royal confederate. Norfolk had hardly been dead two months when the massacre of St Bartholomew filled the Protestant world with mingled fury and terror. The Parliament of 1572 followed up the blows dealt by its predecessors with two Acts (14 Eliz. 1 and 2), extending the penalties of treason to any one who should conspire to seize any of the queen's ships or fortresses, or to set at liberty political prisoners—a provision clearly aimed at Mary and her accomplices. Open war was now raging between the two religions in France and in the Netherlands: the conflagration might at any time spread to this country.

The vigilance of the government was more severely tried than ever before, when, about the year 1579, the Jesuits entered actively into the fray. Their machinations resulted in the temporary predominance of the Romanist and Marian party in Scotland, and in the great rebellion of Desmond in Ireland. The mission of Campian and Parsons to this country was believed to be connected with a series of plots, the object of which was to give practical effect to the Papal bull at the expense of the queen's life. To meet this new attack, Parliament adopted fresh measures of defence. By an Act of 1581 (23 Eliz. 1) the mere attempt to convert any of the queen's subjects to Romanism was made a trea-

sonable offence, the saying or hearing of mass was forbidden under severe penalties, and a fine of £20 a month was imposed on recusants. This statute was subsequently amended by an Act of 1587 (28 & 29 Eliz. 6), which enabled the crown, in default of the fine, to take two-thirds of the property of the offender. By another Act of the year 1581 (23 Eliz. 2), the utterance of seditious words was to be punished by mutilation and fine, while any one publishing a seditious book, prophesying the queen's death, or forecasting the name of her successor, was to suffer death as a felon[1]. The murder of William the Silent in 1584, and the discovery of Parry's plot in February, 1585, intensified the feeling which had already found expression in the national association for the protection of the queen. The Parliament of 1585 legalised (27 Eliz. 1) this association, provided for a Council of Regency in the case of the queen's murder, and excluded from the succession any one in whose interest the deed might be done. By another Act (27 Eliz. 2) all Jesuits and seminary priests were banished from the country on pain of death. The maintenance of any such person was made felony, and any English subject then being educated abroad at a Jesuit school, who should not return and take the oath of supremacy within a specified time, was to be held guilty of high treason.

It might have been expected that measures so sweeping and penalties so tremendous as these would have rendered the queen and the Reformation settlement secure. But Babington's plot showed that so long as Mary lived, men would be found ready to risk their own lives in the attempt to destroy the heretic who barred the way to the succession of the Papist queen and the dominance of Rome. The queen's advisers were more than ever convinced that in the death of Mary lay their only hope of safety, and yet Mary's death meant open war with Spain. In the face of so terrible a risk—a risk which Elizabeth ever since

[1] For the interpretation put upon this Act, see Udall's trial (p. 442).

her accession had been scheming to avoid—it was no wonder that she hesitated long. At length, however, she gave way to the pressure of the Council, the Parliament (p. 109), and the bulk of the nation, and Mary was tried and executed under the Act of 1585 (p. 141). A year after her execution came the great crisis of the reign. The Spanish invasion was successfully withstood, but Parliament did not relax its efforts. The danger from abroad had for the present passed away, but the enemy within the land, though greatly weakened, was still formidable. An Act of the year 1593 completes the tale of Elizabeth's penal laws. The first statute of the year (35 Eliz. 1) was primarily aimed against Protestant sectaries, but the second (35 Eliz. 2) was expressly directed against Popish recusants. Such persons were henceforward forbidden to travel more than five miles from their homes, and the poorer classes of offenders were banished from the realm, while any one suspected of being a Jesuit or seminary priest, and refusing to answer to the charge, could be imprisoned till he would submit to examination.

The gradually increasing severity of these laws seems to show that during Elizabeth's lifetime the fears of the Protestant majority grew with the diminishing numbers of their opponents. Nor is there anything unreasonable in this, for as the chances of a general rising dwindled, the fanatical minority were driven into yet more desperate courses, and were led to attempt by murder what they could not hope to gain by open rebellion. The safety of the country hung upon a single life, and any measures tending to the prolongation of that life seemed justifiable. But when by the execution of Mary the safety of the Protestant succession was secured, when the defeat of the Armada had relieved the country from the fear of Spanish invasion, and still more when the crown had peacefully descended to the Protestant heir, the continuance of such severity may well have appeared unnecessary and therefore impolitic. King James began his reign with a genuine

desire to relieve his Romanist subjects of at least some portion of the intolerable oppression from which they suffered. In his first speech to Parliament (p. 283) he held out hopes of a compromise, and, so far as in him lay, relaxed the severity of the laws. Parliament, it is true, was by no means willing to see its legislative work undone by the dispensing power, and passed an Act (1 Jac. I. 4) confirming the penal statutes of the previous reign. Still the execution of the laws depended on the crown, and toleration would probably have received unprecedented extension, had not the Gunpowder Plot rudely startled the king from his attitude of tolerant composure and driven the Parliament to take measures in some respects more violent than any that had hitherto been adopted. The laws of Elizabeth excluded the conscientious Romanist from politics and the Universities, as well as from the educational and legal professions; they forbade the exercise of his religion and banished his ministers from the realm. The laws of James went further: they not only heightened the penalties and multiplied the public disabilities under which Popish recusants lay, but they interfered with the relations of domestic and private life.

An Act of the year 1606 (3 & 4 Jac. I. 4) obliged the popish recusant, under heavy penalties, not merely to attend church, but to receive the sacrament yearly according to the Anglican rite. It enabled the king to seize two-thirds of the offender's lands, not only (as under the Act of 1587) in default of the pecuniary fine, but whenever he saw fit to do so. It imposed a new oath, more stringent than that of Supremacy, known as the oath of allegiance, and it rendered liable to the penalties of praemunire, that is, to outlawry and forfeiture, any recusant who should twice refuse this oath. It extended the punishment of death for conversion to Romanism, already imposed on the agent, to the convert himself. Another Act of the same session (3 & 4 Jac. I. 5), intended to facilitate the execution of these laws, offered a large bribe to any who

should disclose the names of recusants or other offenders. It banished recusants from court, and, except under special conditions, from the city of London. It debarred them from the legal and medical professions, from posts in the army and the navy, and from the lower public offices. It inflicted severe penalties on the Romanist wife of a Protestant husband, and punished marriage, baptism, or burial performed by other rites than those of the English church. It handed over the inheritance of recusants educated abroad to the Protestant next of kin. It deprived recusants of their ecclesiastical patronage, it debarred them from acting as trustees or guardians, it violated the very privacy of their dwellings by authorizing the justices of the peace to search them for Popish books and relics, and it took away from them all arms beyond the minimum requisite for self-defence. Finally, an Act of 1610 (7 & 8 Jac. I. 6), extended the provisions of the Act of 1606. The oath of allegiance was now made incumbent not only upon recusants but upon all persons of whatsoever rank or description, under the penalty of exclusion from places of trust and from all the liberal professions, while the husband of a recusant was subjected to the alternative of paying a heavy fine or of seeing his wife torn from him and imprisoned till she should conform.

However eager in the cause of persecution the government might have been, the inherent difficulty of putting into action a coercive and inquisitorial system of such minuteness and universality would have rendered it practically impossible to carry out the law. No doubt these merely physical obstacles had much to do with the slackness of the administration, but its energies were benumbed by moral reluctance, arising from various motives of foreign and domestic policy, and from the personal disinclination of the king. Hence a constant source of friction which hampered the relations of crown and Parliament throughout the reign. The fear of excessive lenity, amounting to a practical suspension of the laws, called forth the strongest

expression of opinion (p. 290) touching the limitation of royal power which is to be found in that remarkable document, the Apology of 1604. The laxity of government in this respect heads the list of religious grievances in the petition of 1610 (p. 300), and it is dwelt upon at length in the first petition of 1621 (p. 307). The complications of James' diplomacy in the latter year necessitated a policy of toleration which roused all the old anxieties of Parliament, and the persistence of that body in its demands (p. 311) led to an open breach with the king. That there was good ground for Protestant fears is clear from the instructions issued to the judges in 1622 (p. 422). Even without so overt a declaration of indulgence as this, it was obviously easy for the government to mitigate the rigour of the law. Parliament might legislate as it pleased, but petitions and remonstrances were far from being adequate to enforce strictness or hinder evasion, and the lot of Romanists was no doubt less intolerable than a mere survey of the law would lead us to suppose. It is probable that the religious tests were seldom exacted and that the disabilities were often forgotten in cases where the oaths had been taken and political submission made. Nevertheless, with all deductions, the penal code imposed limitations upon the rights and liberties of the subject, both public and private, which the deepest conviction of danger to the State can hardly justify.

(e) *The Church, the Puritans, and the sects.*

The condition of the Protestant nonconformists, though exposed to serious inconveniences, was a long way from being so painful as that of the Romanists. The penalties and disabilities imposed upon the former were far less severe, they were not being constantly increased by legislation, and they were less dependent on circumstances beyond their own control. The troubles of the English Romanists were to a great extent due to the action of the Pope, the Jesuits, and

the King of Spain: those of the Puritans were largely of their own making, and were due to divergences of doctrine or opinion less significant in themselves than those which divided Romanists and Protestants. But here again we are struck by the fusion of religious and political questions, a fusion which does not appear so early as in the struggle with Rome, but which, in the results which it eventually produced, became even more important.

At the outset of Elizabeth's reign the Act of Supremacy was welcomed by all Protestants alike, and the Prayer-Book was regarded with favour as substituting a purer form of worship for the breviary and the mass. But dissatisfaction soon began to show itself among that advanced section of Protestants which was most strongly imbued with foreign ideas. As early as 1563, objections were raised to certain ceremonial observances and restraints used in the Church, which seemed to savour of popery, and a proposal to give effect to these objections was rejected in the lower house of Convocation by a bare majority of one (p. 191). Seldom has a single vote been more important. Beaten in the assembly, the malcontents took the law into their own hands, and in their parochial ministrations omitted to observe the rubrics or to use the forms of prayer which they disliked. To check these irregularities, Parker and his colleagues issued the body of directions known as the Advertisements (p. 191). The attempt to enforce these rules led to the resignation of some thirty per cent. of the London clergy and of many others elsewhere. But the tide of Protestant fervour, naturally running in the direction of violent antagonism to Rome, was too strong for the bishops. The tenets of the Puritans, as the reformers were now called (p. 195), spread far and wide. The laity, unable to find contentment in the authorized services of the Church, began to meet in 'conventicles' of their own, thus coming into collision with the spirit, if not the letter, of the law.

Thus arose the 'vestiarian controversy,' a dispute which raged apparently round outward symbols, but which really

turned on grave differences of opinion (p. 199). For some ten years after Elizabeth's accession, this movement went on within the bounds of the Church. There was little sign of a tendency to schism, or of a desire to overthrow the existing ecclesiastical system. But about the year 1570, just when the publication of the Papal bull rendered the conflict with Rome irreconcilable, the dispute with the advanced wing of Protestantism entered upon a new and more acute stage. The principles of church-government advocated by Calvin were not the necessary outcome of his religious teaching, but the adoption of one half of the master's views naturally led his disciples to support the other. Moreover it was clear that the chief obstacle to the spread of Calvinistic doctrines in this country was the existence of a hierarchy hostile to the school of Geneva. Thus respect for a great teacher combined with the exigencies of the situation to foster Presbyterian views, and led a large section of the Puritan party to attack the bishops. The new doctrines were openly preached by Cartwright and others (p. 196), at Cambridge and elsewhere, and were urged in able but extravagant pamphlets such as the two Admonitions to Parliament (p. 198). About the same time great encouragement was given to the Calvinists by the triumph of their organization in Scotland, and the first Book of Discipline (pp. 247, 248), in which that system had been set forth some ten years earlier, was adopted by Cartwright as the manifesto of his party. This was a step fraught with grave political consequences, and brought Cartwright and his followers into direct collision with the crown. The resistance of the Puritans to the queen's Injunctions was an act of insubordination which could hardly be passed over, but the anti-episcopal doctrines of Presbyterianism involved an overt attack on the ecclesiastical supremacy, while its democratic tendencies threatened the stability of the State.

It is therefore not surprising that at this juncture the queen interfered. She allowed an Act (13 Eliz. 12) to be passed sanctioning the Thirty-nine Articles and empowering the

bishops to impose a recognition of them on all ministers. She issued a proclamation (p. 208), straitly charging the ecclesiastical authorities to enforce the provisions of the Act of Uniformity. She endeavoured to suppress the 'exercises' (p. 204), or assemblies for the purposes of religious discussion, which had come into fashion in many dioceses. These meetings (pp. 202–208), in which originally the clergy alone took part, but to which the laity were subsequently admitted, first as hearers only, afterwards as speakers, afforded excellent opportunities for the spread of Puritanical and Presbyterian doctrines, and for calling attention to abuses in the Church. That such abuses existed, there is only too much evidence to prove. Complaints of a want of learning in the ministry, of pluralities and non-residence, are frequent throughout the period (pp. 215, 218, 301, 414). The regularity with which they recur, in parliamentary and other petitions, seems to show that the remedial measures of Convocation (pp. 200, 202, 222, 226), while recognizing these evils, met with but little success. Parliament attempted to legislate on the subject, and the queen only evaded the pressure by promising (pp. 209, 210) to take the burden of reform upon her own shoulders.

About the year 1583 came another change. It was the year in which Whitgift succeeded to the archbishopric (p. 211). This event nearly coincided with the first open attempts to establish the Presbyterian organization in this country, and with the appearance of Independency. During the rule of Grindal, himself more than half a Puritan, advanced doctrines had gained ground apace. The Privy Council and the House of Commons sympathized with and encouraged the exercises (pp. 206, 218). The archbishop gave them his sanction and regulated their proceedings (p. 204). The queen ordered him to suppress them (p. 205), but apparently her orders were disregarded, and the archbishop's reluctance to obey was one of the chief causes of his suspension. Puritanism easily led to Presbyterianism. In the year 1582 a synod of Calvinistic ministers adopted the

second and fuller Book of Discipline, published in 1578, and set about carrying its principles into practice. Scattered presbyteries had for some time been in existence. These were now, in various parts of the country, combined in the wider organization called a 'classis' (p. 248). Had this system been allowed to spread a little more widely, it would have gone hard with the Church of England. About the same time, doctrines even more subversive of the Church and the ecclesiastical supremacy began to be promulgated

Browne, Barrow and others, whose disciples, afterwards known as Independents, were at first called after the names of their leaders. If the establishment of presbyteries, classes, and synods threatened the episcopalian system, the theory that every congregation of Christian men formed a separate church and should be free to govern itself as it pleased (p. 223), left no place at all for the bishops or for the exercise of royal authority in matters ecclesiastical.

In selecting Whitgift as Grindal's successor, the queen had chosen a man of undaunted courage and rigid orthodoxy. If the nonconformists were to be suppressed, she could hardly have found an instrument better suited to her purpose. But, though he was strongly supported by the queen, and was a member of the Privy Council, the task before him was no easy one. The articles (p. 211) issued immediately after his succession, insisting on subscription to the Prayer-Book and all the Thirty-nine Articles, were regarded by many as going beyond the law. The questions which he drew up, in order to prevent evasion and discover the least deviation from orthodoxy, were condemned even by Burghley (p. 213). The House of Commons took up the cause of the deprived ministers, and, while calling attention to abuses in the Church, recommended greater leniency in dealing with the Puritan clergy. The severity of the bishops and the High Commissioners, and the insolence of minor officials, gave occasion to call in question the legality of their proceedings, the use of excommunication, and the oath 'ex officio' (pp. 215–218). The house even went so far as to advocate a plan

under which the authority of the bishops in ordination should not be exercised without the co-operation of a certain number of the inferior clergy (p. 216). The Presbyterian tendency of this recommendation appears more plainly in a petition presented about the same time to the queen (p. 219). This petition, which openly proposed to substitute the authority of synods or diocesan associates for that of the bishops, went further than the Commons were at that time inclined to go, but it can hardly be doubted that, if the measures advocated by the lower house had been supported by the Lords, the episcopal system might have been profoundly modified. The Privy Council was itself divided. Some of its members, like Knollys and Mildmay, were Puritans by conviction; others, like Leicester, appear to have advocated a new reformation with a view to further plunder. The queen, however, stood firm. The supremacy over the Church was her own and she refused to share it (p. 222). In all her long and trying reign, she probably never showed a cooler courage and more masculine self-reliance than in this crisis, when, hemmed in by dangers at home and abroad, with a war for very existence in prospect, and threatened with daily plots against her life, she resisted, almost unaided, the pressure of Parliament and council, backed by a growing party in the State, and defended the Church from a second revolution.

During the last years of Elizabeth's reign there were some signs of reaction. The attacks on the bishops continued, and even became more violent, culminating in the Marprelate libels (p. 225) about the year 1588. But the virulence of the sectaries overshot the mark. The danger of disunion in the face of foreign invasion forced itself upon thinking men. Parliament, though still anxious for ecclesiastical legislation, and with difficulty restrained by the personal influence of the queen (pp. 120, 125, 126), emphatically dissociated itself from the schismatics in the Act of 1593 (35 Eliz. 1). This Act, expressly aimed at 'seditious sectaries and disloyal persons' (§ 1), punished with banishment and

even death (§ 2) the frequenters of conventicles and other assailants of the ecclesiastical supremacy. It seems to have been successful for the time. Many sectaries fled the country; a few suffered death; and for the rest of the reign the Church was, comparatively speaking, left in peace. It is possible that this lull was partially due to the influence of Hooker, the first four books of whose great work appeared in 1594 (p. 245). It is difficult to believe that no effect was produced by his learned and judicious advocacy of the Anglican system, and still more by his elevated and impersonal tone of controversy, so far superior to that of the majority, at least, of his contemporaries.

On the accession of James I the conflict broke out anew. The hopes which the Puritans had nourished were doomed to disappointment. What these hopes were may be gathered from the Millenary Petition (p. 413). This petition, it should be remembered, did not emanate from the Presbyterians, the Independents, or any of the more schismatical sects. It was signed by persons who repudiated all sympathy with factious and schismatical parties and were anxious to remain members of the Church of England. Their principal demands may be grouped under three or four heads. They asked, first, for a purification of ritual, and for the omission of practices which they regarded as relics of popery; next, for the withdrawal of those stringent regulations touching subscription to the articles which excluded many conscientious ministers from the Church; thirdly, for the abolition of various abuses, such as pluralities and 'commendams;' and lastly, for a reform of the ecclesiastical courts, with restrictions on excommunication and the 'ex officio' oath. The Hampton Court Conference, held shortly after the presentation of this petition, arrived at certain conclusions (p. 416) which recognized the desirability of reform, but produced no practical results. James, while presiding at the conference, made no secret of his own bias. In his speech at the opening of his first Parliament, he clubbed all Protestant nonconformists to-

gether as 'Puritans and Novelists' (p. 283), and told them plainly they must expect no toleration. It was in vain that Parliament (p. 285) supported the petitioning ministers. James replied by a proclamation (p. 420), in which his resolution to enforce a strict conformity was expressed in no doubtful terms. The Puritans were allowed a brief period of grace, and six months later Bancroft, the new archbishop, who trod in Whitgift's steps, ordered the decree of deprivation to be carried into effect.

Henceforward the conflict, thus begun, continued without any real pause, until it ended, for a time, in the overthrow of the Church. The old demands, so often reiterated, appear again in the parliamentary petitions of 1610 (pp. 300, 302). The king, convinced that concession would only expose the bishops to further attack, and that the very existence of the monarchy was bound up with the episcopal system, turned a deaf ear to all such prayers. His obstinacy was partly instrumental in bringing to an untimely end the financial treaty known as the Great Contract[1], an arrangement which would have been as beneficial to him as to the country at large. It is here that the religious question becomes fused with the political. The refusal of the king to grant redress for ecclesiastical grievances was answered by Parliament with a refusal or at least a stinting of supply. The question of church reform was practically inseparable from two other questions, that of the execution of the penal laws and that of the political power of the bishops. The former has already been discussed: of the temper of the Commons regarding the latter, their angry remonstrances against Bishop Thornborough in 1604, and Bishop Neile in 1614, are striking illustrations. On several occasions the bishops showed themselves warm and indiscreet supporters of the prerogative. In 1606, it can hardly be doubted that their influence had much to do with the failure of the bill to limit the power of Convocation (above, p. xxxv). Again, in 1614, they were mainly instrumental

[1] Gardiner, Hist. of England, ii. 84, 107.

in procuring the rejection by the Lords of a proposal from the Lower House for a conference on the burning question of indirect taxation. The bishops were strictly within their legal rights, but their conduct on this occasion was resented by the Commons as an unwarrantable interference in a purely political dispute. The idea involved in this objection is hardly compatible with the political control claimed, and elsewhere exercised, by Presbyterian divines.

Thus religious and political motives combined to urge upon the representatives of the nation the necessity of radical ecclesiastical change. At one end of the scale stand the religious demands of conscientious Puritans; at the other the technical objections of the lawyers and the destructive aims of partisans who had purely political objects in view. But between these parties there is no clear line to be drawn: many men were at once Puritans and politicians; the different sections of the attacking force helped and strengthened each other, and the storm they raised beat upon the Church till it fell. When in 1641 Archbishop Williams and his more moderate colleagues tried to appease the Commons by proposing reforms which would have been welcomed thirty years before, it was too late. The anti-episcopal party had a majority, though not a large majority, in the Long Parliament. This party carried the Act (16 Car. I. 27) which deprived the bishops of their political rights, and in the effort to prevent their 'root and branch' extinction Charles and his Parliament came to blows.

III.

Parliament.

The legislative importance of Parliament during the sixteenth century was, as has been already said, very great, and it was certainly not less under Elizabeth than under her predecessors. But in the sphere of the executive that influence cannot be said to have gone far, and it was by

no means continuously exercised. Elizabeth, during her long reign of forty-five years, summoned ten Parliaments, which held in all thirteen sessions. Parliament met therefore, on the average, about once in every three and a half years. The longest interval was that between the second and third sessions of her fourth Parliament, when nearly five years elapsed (March 15, 1576–Jan. 16, 1581). Longer intervals had however occurred in the reign of her father, and were to occur again in those of her two successors. In the aggregate the sessions of her Parliaments (including short adjournments), lasted nearly three years, giving an average of rather more than three weeks per annum. However necessary an element of the constitution Parliament may have been, it would be a stretch of language to call such a system parliamentary government.

James I, in his reign of twenty-two years, summoned four Parliaments, which held, in all, eight sessions. In the aggregate they cover nearly as long a time as the parliamentary sessions of Elizabeth's reign, and give an average of more than six weeks per annum. But they are less evenly distributed than those of Elizabeth. During the first eight years of James' reign, Parliament met no less than five times, but between 1610 and 1621 it met only once, and the Parliament of 1614 was barren of legislation. It might be gathered from this circumstance, even if we had not more conclusive evidence elsewhere, that James' relations with his Parliaments were less harmonious after 1610 than before that date.

The legislative work of the two reigns is not in proportion to the duration of their parliamentary sessions. The statutes of Elizabeth are not only considerable in bulk, but in many cases are of great political, ecclesiastical, and social importance, striking out new lines of policy which were to be followed for generations. The legislation of James I did little more, except in regard to the Union, than follow out the lines laid down by his predecessor. His Parliaments spent much more time in the defence of their

privileges and in discussions which led to no immediate legislative results. It does not follow from this that their work, regarded from the constitutional point of view, is less deserving of attention. In the time of James I it was more essential to assert constitutional principles and to maintain parliamentary rights, than to pass new laws or to create new institutions.

(a) *Composition of Parliament: election of the Speaker.*

The control of the crown over Parliament depended, in the first place, on its right to summon, prorogue, and dissolve the national assembly at pleasure. This right was undisputed before the reign of Charles I, and was expressly asserted by Elizabeth with her usual vigour (p. 125). Its importance is too obvious to require pointing out. In the next place, the composition of Parliament was largely dependent on the will of the sovereign. This was especially the case in the Upper House. The bishops were the nominees of the crown, and composed nearly a third of that body. The temporal peers were few in number—under Elizabeth they appear never to have exceeded sixty—and they were mostly new creations, owing their position to the sovereign and a large part of their possessions to the Reformation. Although, when once summoned, the hereditary nature of their privilege might tend to make them independent, new peers could at any time be created. From a body so composed, not much opposition was to be feared. James I was less chary than Elizabeth in creating peers, but during his reign, at all events, the Upper House maintained towards the sovereign a complaisant, if not a subservient attitude.

As it was the right of the crown to call new members to the House of Lords, so it was also in its power to enlarge the numbers of the House of Commons. The Tudors made a full use of this prerogative. During their time the numbers of the Lower House were nearly doubled, Eliza-

beth herself adding no less than sixty-two new members. James did not go so far in this direction as his predecessor, but he did his share, with the result that, if we exclude the Scotch and Irish members, the House of Commons, at the end of his reign, was nearly as large as it is now. The new members, with the exception of those from the Welsh counties added by Henry VIII, came entirely from the boroughs. Many of them represented small towns, which would more properly be styled villages, in remote parts of the country, such as Cornwall, where royal influence might be exerted without much fear of detection. That such pressure was brought to bear seems proved by sufficient evidence, but there is no reason to believe that elections in general took place under conditions like those which prevailed in the eighteenth century. It is true that general directions were occasionally issued to sheriffs and others respecting the class of persons to be nominated (pp. 280, 441), but it must be remembered that the influence exercised by local magnates on parliamentary elections, both in town and country, had always been considerable, and so long as the influential classes were on the side of the government, it is unnecessary to go further to find an explanation of the fact that the Tudor Parliaments in general supported the crown. That the Stewarts, with just the same power and opportunities, failed to attain similar results, may be held to imply that the government exercised little direct control over the elections. Cases of fraud and bribery occasionally occur, as for instance, at Westbury in 1571 (p. 132), and at Cardigan and Shrewsbury in 1604 (p. 331), but so far as the records go, these affairs appear to have originated in nothing more important than personal ambition and local intrigue. The main reason for the large increase in the number of borough-seats is probably to be found in the growing prosperity of the country and in the reliance which the Tudors placed on the commercial and industrial classes. That these classes must have largely profited by the change is obvious, but

this gain was shared with others. It was probably owing to the difficulty of finding men of sufficient standing and education to represent the smaller places, that the statute of 1413, which confined the passive franchise to residents, had been allowed to become obsolete. The result was that a large number of lawyers found their way into the Lower House, and formed an influential section of the Elizabethan and Jacobean Parliaments. The interests of these legal members, like those of the merchants and traders, were bound up with the maintenance of law and order. So long, therefore, as the crown remained the safeguard of these interests, they were firm in its support. But when the sovereign deserted their cause, and by straining or overriding the law undermined the foundations of public order, the lawyers in particular turned against him. In their ranks were to be found during the first half of the seventeenth century many of the boldest and most eloquent opponents of arbitrary prerogative.

When Parliament met it was at a great disadvantage as against the government, owing to its want of organization. The comparative rarity of its meetings prevented its members from knowing each other, and hindered the formation of the habit of united action under recognized leaders. In an age when daily papers, public meetings, and the caucus were unknown, it was impossible to concert measures beforehand. The election of a Speaker was the first step on the opening of Parliament, and the powers of the Speaker (p. 124) were such as to make the choice a matter of great importance. But it was practically out of the control of the House. The returns were in the hands of the Privy Council long before the members could know who were to be their colleagues. The government therefore had plenty of time to choose its man and to take proper measures for securing his election. Although the theory was that the House appointed the Speaker and presented him for the acceptance of the crown, the common practice is described (p. 178) as being exactly the reverse.

(b) *Legislation.*

When it came to debate and legislation, the crown had all the advantage of the initiative. Its ministers had prepared their Bills and decided on their policy, while unofficial members were unaware what would be submitted to them and could only ascertain the truth about many important facts by applying to the government. Party-organization was unknown; 'Her Majesty's Opposition' had not come into existence; and as there was no alternation of ministers in power, official experience was confined to those actually in office. Under such conditions, it is not wonderful that ministers had it largely their own way, and that government measures passed as a matter of course. On the other hand, it was generally not difficult to stop obnoxious legislation in its preliminary stages without having recourse to the veto of the crown. That the mere intimation of the queen's displeasure was often sufficient seems clear from the complaints of Peter Wentworth (p. 120). If this was not enough, stronger measures were resorted to. A recalcitrant member was occasionally inhibited from attendance or committed to prison, as was the case with Mr Strickland in 1571 (p. 119), and Mr Cope and others in 1587 (p. 124). Sometimes the obnoxious bill would be sent for by the queen (p. 120), or legislation would be simply forbidden (pp. 115, 125, 126). In the last resort the veto could always be used, and the right to use it was frankly asserted (pp. 125, 411).

However much these various methods may have detracted from the free action of Parliament, they must be regarded on the other hand as so many recognitions of the constitutional principle, that the power to make laws finally binding on the community resided solely in that body. The legislative supremacy of Parliament, by which of course is meant the crown and the three estates in Parliament, is emphatically set forth by Sir Thomas Smith, himself a royal official (p. 178). It is asserted, without contradiction, by

members of Parliament, as by Yelverton in 1571 (p. 119), and, in a more technical form, by Whitelocke in 1610 (p. 352). But the practical effect of this supremacy was considerably reduced by the exercise of certain powers, one positive, the other negative, also recognized as belonging to the crown. It was generally maintained, at least in the sixteenth century, that the sovereign could, either alone or with the advice of the Council, issue proclamations controlling the liberty of the subject, so long as such edicts did not run counter to statute or common-law, and that he could dispense with the action of the law in individual cases. The constitutional importance of these powers, limited only by custom or good sense, depended on the extent to which they were exercised in practice. The Act of 1539 (31 Hen. VIII. 8), which gave the king's proclamations the force of law, had been repealed in 1547 (1 Ed. VI. 12), but this did not prevent the crown from enforcing them by penalties inflicted through the Privy Council. Such proclamations were frequent both under Elizabeth and James I. The area covered by statute was comparatively small, and left a large field open to be dealt with by this quasi-legislative authority. Some of the most remarkable examples of its use are to be found in connexion with the censorship of the press. The ordinance of 1566 (p. 168), developed by that of 1586 (p. 169), placed the freedom of publication under very severe restrictions. By the second of these edicts the supreme control was placed in the hands of the Archbishop of Canterbury, the Bishop of London, the two Chief Justices, and the Chief Baron. Elizabeth's regulations were confirmed, with slight modifications, by James I (pp. 394, 395). It may be doubted whether that king carried the practice further than his predecessor, but, as the times had changed, he met with more resistance. The vigorous language in which the Commons protested against the illegalities of the system (p. 305), combined with the opinion of the judges (Coke's Reports, part xii. p. 297, ed. 1826) that new offences could not be created by proclamation,

produced a salutary effect, and for some time at least this power was reduced within tolerable limits.

The other power, that of dispensing with the laws in particular cases, was abundantly exercised in Elizabeth's reign, especially in regard to Romanists, and also in respect of commercial regulations. It is not only expressly recognized by Sir T. Smith (p. 179) and Sir F. Bacon (p. 111), who might perhaps in this point be regarded as prejudiced witnesses, but by ordinary members of Parliament, like Sir G. More (p. 113), and when used in moderation it never seems to have been disputed. James however carried this power to unheard of lengths. It was by means of it that he neutralized the action of the penal statutes, and his declaration of indulgence in 1622 (p. 422) amounted to a complete suspension of the law. The grave political results to which this abuse gave rise have been already alluded to. It was not checked until the Bill of Rights, and even then the vague language of that document leaves its legal use indefinite.

The opposition to James' exercise of these powers was increased by the extravagant language in which the king and his supporters magnified the prerogative. Elizabeth, with her statesmanlike instincts, shrank from pompous definitions and sweeping generalities, but for James they possessed an irresistible fascination. The political views with which his writings and speeches abound, [illegible] logically carried into practice, have extinguished [illegible] mentary legislation or reduced it to an empty form. In his analysis of a 'free monarchy,' by which he means a monarchy free to do what it pleased, he used expressions which can only be interpreted as implying absolute legislative powers in the crown (p. 400). Dr Cowell could scarcely improve upon his sovereign, even when he roundly asserted that the participation of the estates in the making of laws was a matter of grace and policy, and that the execution of statutes was entirely at the king's discretion (pp. 409, 410). The Commons could not openly resent

the publication of James' absolutist theories, but they testified their abhorrence of the same views when uttered by a subject by ordering Cowell's book to be burnt by the hangman. At a time when political questions were being actively debated, and when practical difficulties were forcing men to find either a legal or philosophical basis for their respective positions, these theories assumed great importance. It was essential for the defence of the parliamentary system that the logical consequences of concessions to the monarchy should be clearly perceived.

(c) *Taxation.*

The theoretical control of Parliament over the national purse was as clearly recognized as its control over the law. But here again the crown possessed certain indefinite powers which enabled it to evade the authority of Parliament, and which were eventually seen to be capable of very dangerous extension. The crown possessed (1) a revenue, more or less regular, derived from crown-lands, feudal rights, ecclesiastical firstfruits and tenths, Star-chamber and recusancy fines, and some other sources. In respect of this revenue it was completely independent. The indirect taxes (2) levied on imports and exports, including customs-duties and tunnage and poundage, were in a manner subject to control, for they rested on a parliamentary vote passed, during this period, at the outset of each reign. The rights of purveyance and pre-emption are historically connected with the customs, and should be mentionod here, though they were at this time regarded as something quite separate. The common phrase, 'The king should live of his own,' applied to the ordinary revenue which falls under the above-mentioned heads. It was supposed that this income should suffice for the ordinary business of the state. But it had never been fully adequate for this purpose, and it became less and less sufficient during the Tudor times. It was supplemented

(3) by the extraordinary taxes called subsidies, and fifteenths and tenths, which could only be levied by vote of Parliament, and (4) by the additional duties on imports, known as impositions, which, though to a certain extent based on statute (see below, p. lxxiii), can hardly be called parliamentary. An irregular income was also derived (5) from the sale of monopolies and patents, the right to grant licenses to ale-houses, and other means of extortion. Lastly, (6) the Tudors and their immediate successors were in the habit of occasionally increasing their income by collecting what were fictitiously called benevolences, or of providing themselves with ready money by means of loans. The conflicts which so grievously disturbed the relations between crown and Parliament in the first half of the seventeenth century were mainly due to the uncertainty which prevailed regarding the second, fourth, and sixth of these heads, but feudal dues and monopolies also came into question, and eventually, in Hampden's case, the right of the crown to take direct taxes without consent of Parliament.

(1) *Feudal Incidents and Purveyance.*

The feudal dues, consisting of the sums payable by way of reliefs, the profits of wardships, marriages, and escheats, with other valuable rights (p. 295), were, after the crown-lands, the oldest existing source of royal income, unless indeed purveyance may be regarded as older still. The ordinary feudal dues were reckoned in 1610 as being worth £45,000 a year (p. 345). But, besides this income, the feudal sovereign could on three special occasions, viz. the knighting of his eldest son, the marriage of his eldest daughter, and for his own ransom, levy an extraordinary aid. The subjects of King James were not likely to be called on to meet the last-named emergency, but they had to pay for both the two former. Prince Henry was knighted in 1609, and Princess Elizabeth was married in 1613. The method of collecting the aid on these occasions is described in the

documents printed on pp. 355–358. It amounted to a tax of five per cent. on the yearly value of all land held of the king, whether by military tenure or by socage. It was levied, in the case of the smaller tenants, by the sheriff and other royal officials, while the chancellor and the other commissioners were appointed to compound with the large landowners and various corporate bodies. The recurrence of this unusual demand in 1609, after the lapse of more than a century—for Henry VII had been the last sovereign in a position to levy these aids—with its concomitant enquiries and opportunities for extortion and jobbery, was likely to give rise to wide-spread irritation. The question of feudal dues in general had already been brought forward in the Apology of 1604 (p. 291), when it was urged that the union with Scotland had removed their original justification. It was probably due in great measure to the aid of 1609 that the demand for their abolition came up again in the Parliament of the following year. A negotiation began, which, after much haggling, resulted in a proposal that the king should surrender his feudal rights, together with purveyance —a right much more annoying to the subject than beneficial to the crown—and should receive as compensation a sum of £200,000 a year (pp. 295, 298, 299). The occasional feudal aids were still to be taken (p. 296) when occasion arose, but to be limited in amount. The arrangement was on the point of being concluded, when it broke down, in great measure owing to religious disputes (cf. above, p. lx). The rupture of the negotiations left matters to remain as they were till the Civil War. At the Restoration the feudal dues, already abolished by parliamentary ordinance in 1643, were finally done away with by statute, the crown receiving a highly advantageous compensation in the excise.

The practice of levying fines by way of distraint of knighthood had its origin in military necessities, but as it was closely connected with the feudal system and had become a way of obtaining money, it may be mentioned

here. Under this system all persons possessing land worth £40 a year—it had once been £20—were obliged to take upon themselves the honour of knighthood, with its attendant burdens, military and other, or to pay a fine at the discretion of commissioners nominated for the purpose. Elizabeth put the system in practice at the commencement of her reign (p. 133), and her example was followed by James I and Charles I.

(2) *Customs, Tunnage and Poundage: Impositions: Monopolies.*

The origin and antiquity of the customs-duties is still matter of dispute. A discussion of their earlier history would be out of place here: it must suffice to remind the reader that, although the 'ancient customs' are recognized in Magna Carta, the duties on wool, hides, and leather, in their parliamentary form, date from the reign of Edward I, while tunnage and poundage, the duties on other kinds of merchandise, date from that of Edward III. The practice of granting these latter duties for life, initiated in the last Parliament of Richard II, had been continued under the Lancastrian kings. From the time of Edward IV it had become habitual to make such life-grants at the outset of each reign. Thus it is not surprising to find Parliament regarding these indirect taxes as 'an ancient revenue annexed and united to the crown' (pp. 25, 26), and making the same grant to James I as a matter of course. When the House of Commons in the first Parliament of Charles I departed from the practice of nearly two centuries and attempted to restrict their grant to one year, they took an important step towards a revolution. The amounts to be levied on the various commodities are set forth in the statute of 1559 (1 Eliz. 20, p. 26), and these continued to be the ordinary rates levied under Act of Parliament throughout the reigns of Elizabeth and her successor. The

customs-duties increased but slowly in amount during the early years of Elizabeth. In 1585 they were still farmed at £24,000 a year, but this was considerably below their value. Forty years later they had increased to £160,000.

But the parliamentary duties do not exhaust the list of indirect taxes. They were supplemented by impositions, a name given to certain additional duties laid upon various articles of import.

The importance assumed by the question of impositions in the reigns of the first two Stewarts necessitates a short account of their origin and history. The first addition made in the Tudor times to the old rates was made in 1491, when an Act (7 Hen. VII. 8) was passed, which largely increased the duty on sweet wines imported from the Levant. This was done by way of retaliation on the Venetians, and was not primarily intended to be profitable to the crown. In a similar spirit the importation of French wines was forbidden within certain times of the year by the statute 23 Hen. VIII. 7. It was an advance on these parliamentary enactments when Henry VIII was empowered (26 Henry VIII. 10), during his life, to regulate by proclamation the course of trade, by repealing or subsequently reviving statutes passed by the parliament then sitting, touching the import or export of any merchandise. Now the natural way of discouraging a trade was to impose a heavy duty, and thus arose the royal right of levying impositions. Originally conferred upon the crown for commercial purposes, and with what we should now call protective or fair-trade objects, it was only later that it came to be used as a means of enhancing the royal revenue. It was by virtue of this power that Henry VIII, without any interference from Parliament, modified the duty on sweet wines, and imposed what was called a 'new custom.' Mary forbade, under the penalty of a prohibitive duty, the importation of French wine at a time when a strong anti-Gallican policy was being pursued, and still further increased the duty on sweet wines. Elizabeth, by adding a mark to the duty on

French wines, merely equalized it with the duty already payable on the other sort. Subsequent Acts of Elizabeth's reign (23 Eliz. 7; 39 Eliz. 10) show that this retaliatory policy was still in fashion, and by implication leave it in the hands of the crown to carry it out[1].

It is clear then that when, in the fourth year of James' reign, the question of impositions came before the Law Courts in the famous case of Bates, the crown could quote law and precedent in its favour. But in this particular matter—the duty levied upon currants—special arguments might be used in behalf of the crown. The government was empowered, partly by custom, partly by statute, to regulate trade. Such regulation might take the form either of repression or encouragement. Repression, as shown above, implied the right of levying impositions: encouragement might be given by the grant of monopolies. In the case of foreign trade, which often involved great risks, such encouragement was, in the infancy of commerce, almost indispensable. Hence the monopolies granted to the great trading companies towards the close of the sixteenth and the beginning of the seventeenth centuries. Naturally, however, such monopolies were not granted for nothing: the crown looked to make its profit, directly, by a charge upon the company, and indirectly, by the general growth of trade and customs. On such a basis as this, the Levant Company had been established towards the end of Elizabeth's reign. After passing through various vicissitudes, it had arranged with the crown to keep its monopoly on payment of £4,000 a year. But partly in deference to the outcry against monopolies, partly owing to losses in trade, the company in 1603 withdrew from the bargain, surrendered its charter and ceased to pay the yearly rent. To recoup the crown for the loss thus incurred, the duty on currants—a duty previously levied by the company itself on merchants

[1] Cf. Hall, *Customs-Revenue*, i. 122 ff., correcting Hallam, *Const. Hist.*, i. 242, 246.

not belonging to it—was put on. It will be allowed that, on legal and other grounds, there was much to be said for the government[1].

But the question could not any longer be regarded solely from the legal point of view. These trade-monopolies and additional duties, originally justified in the eyes of contemporaries by supposed commercial necessity, had become a source of profit to the crown and therefore a means of evading parliamentary control. It was only natural that the full importance of the question from the political point of view was not immediately perceived. How it was argued in court by Bates' counsel we do not know, but the opinions of the judges (pp. 340–342) are based mainly on legal grounds. It cannot be maintained that in giving judgment they were servile, intimidated or corrupt, and had they confined their observations to purely legal topics, it would have been difficult to find valid objections to their decision. But unfortunately they went further. Although such considerations were not vital to their case, they introduced political theories capable of wide and dangerous application. Baron Clarke maintained that statutes were only binding on the king who made them, and Chief Baron Fleming drew a distinction between the ordinary and the absolute power of the crown. It is difficult not to perceive in this distinction the effect of James' unfortunate penchant for philosophical generalization, but no doubt it was also due to the discussions about sovereignty to which political disagreement was inevitably giving rise.

It is remarkable that the Parliament of 1608 acquiesced in the decision of the Exchequer, but the advantage taken by Cecil of that decision, and the issue of a new Book of Rates in which it was applied, brought the political consequences clearly before the eyes of a later assembly. The commission by which James empowered his Treasurer to levy impositions frankly claims for the crown (p. 354) a free

[1] Cf. Gardiner, *Hist. of England*, ii. 1–10; and Hall, *Customs-Revenue*, i. 145–173.

hand in this branch of taxation, and states expressly that a revenue may and ought to be raised by this method. The Parliament of 1610, engaged in a conflict with the king on religious and other questions, could not afford, by recognizing this claim, to relinquish so important a means of bringing pressure to bear upon the crown. The debates of that year show that the representatives of the nation were fully alive to the danger. Mr Hakewill argued the legal question at great length (p. 342). On technical points he cannot be said to have had the better of his opponents, and it is unfortunate that, in the endeavour to gain a victory on this doubtful ground, he laid himself open to the charge of being disingenuous. But, after all, this was not in the main a technical question. An important political principle was at issue, and here the speaker could bring stronger arguments to bear. He endeavoured to prove that indefinite taxes, like indefinite penalties, were alien to the spirit of English law; that such sources of revenue, if not fixed by statute, were not left to be settled by the caprice of the sovereign; that previous kings had recognized the right of Parliament to fix the dues in question; that the king's right to close the ports to persons and goods, if necessary for the national safety, did not imply the right of setting what price he pleased upon their entry; and that if the king might raise impositions at discretion, he might by the same argument raise any other tax. Mr Whitelocke (p. 351), while by no means ignoring legal arguments, placed the issue on still higher grounds. He showed that the power now claimed was of an essentially revolutionary nature; that sovereignty resided, not (as Baron Fleming said) in the king alone, but in the king-in-parliament; and that if the king's claim were allowed, there would soon be an end of parliamentary government. Looked at in the light of later events, there is something prophetic about the utterances of these two speakers. They might almost be thought to have pointed out the way to the despotic advisers of Charles I. Both sides could quote law and

precedent in their own favour, and make plausible deductions from established premises, but they were equally aware that the question was at bottom political. If we regard the discussion as a legal one only, we shall be wearied by its antiquarianism and its technicalities; but looked at from another point of view, it becomes one of the highest interest. It is not too much to say that it contains the germ of all the subsequent quarrel, anticipates the cases of Darnel and Hampden, and foreshadows not obscurely the fundamental question at issue in 1640.

The rival claims of King and Parliament were unfortunately not settled on this occasion. A Bill for remedying the evil was prepared, and the king at one time promised to give his assent. But the Bill went the way of the Great Contract, and the dissolution of Parliament shelved the question for several years. In 1614 it came up again. Impositions were now distinctly coupled with monopolies, with which, as has been shown above, they were historically connected. A committee had been appointed to report on the grievance of monopolies in 1597. The great debate in 1601 (pp. 111–117) had not been barren of results, and some monopolies had been abolished. But the practice was too convenient a way of rewarding clamorous supporters and of bringing a little money into an empty exchequer to be entirely relinquished. During the first ten years of James' reign, the evil had steadily grown, but the time was not yet ripe for checking it. The Addled Parliament separated without making any way either with this question or with that of impositions. Its successors were more fortunate. By the year 1621 the evil of monopolies had grown to an unprecedented height. Not only were they so numerous as to encroach in all directions upon the freedom of trade and manufacture, but the patents granted were grossly abused. The Parliament of 1621 made examples of the most notorious offenders, such as Michell and Mompesson, but it was dissolved before it could deal with the question as a whole. It was reserved for the

Parliament of 1624 to pass an Act (21 & 22 Jac. I. 3) which, while recognizing the necessity of encouraging inventions, put a stop to all arbitrary and unjustifiable restrictions. But this Parliament refrained from attacking impositions, although their value had largely increased during James' reign. The impositions, including the taxes on wines, produced in 1623 upwards of £100,000, while various special duties brought in some £60,000 more, making with the ordinary customs (above, p. lxxiii), a total of £323,000 derived from indirect taxation[1].

(3) *Benevolences and Loans.*

The practice of demanding benevolences, in its later form, seems to have begun at least as far back as the reign of Edward IV. Though they were nominally free gifts, persuasion was, from the first, only too liable to degenerate into compulsion. Abolished in 1483 (1 Ric. III. 2), they were authorized, at least by implication, under Henry VII (2 Hen. VII. 10), and were occasionally taken down to the time of Charles I. Elizabeth seldom had recourse to this method. Indeed the only known occasion seems to be that of 1587, and as the contribution was in this case voted by Convocation (p. 137[2]) it was at all events not a benevolence of the ordinary kind. James was less scrupulous than his predecessor. Having quarrelled with his Parliaments, or being anxious to avoid having recourse to parliamentary methods, he took benevolences on three occasions, in 1614, 1620, and 1622. In the circular issued in 1622 (p. 359), the contribution is as usual stated to be voluntary, but the threat of summons before the Council, in case of 'obstinacy or disaffection,' shows that pressure was to be used to stimulate deficient loyalty. Charles I attempted once or twice to take benevolences, but with little success. The last occasion on

[1] Cf. Gardiner, *Hist. of England*, x. 322.
[2] Hallam (*Const. Hist.*, i. 243) seems to be in error here.

which the contribution appears was in 1661, but then it was voted by Act of Parliament. The method was naturally unpopular with all parties. It was of course objected to by opponents of the monarchy as an illegal tax and as an evasion of parliamentary control, while it was disliked by supporters of the government because it was sure, in the end, to fall most heavily on those whose principles made them most willing to pay.

In order to meet temporary deficiencies, the Tudor and Stewart sovereigns were in the habit of borrowing money on a large scale from their subjects. This practice was little more defensible, on constitutional grounds, than that of exacting benevolences. In the earlier Middle Ages the government had been accustomed to borrow from the Jews, who could not refuse a royal demand, or from foreign merchants, who were tempted by a high rate of interest. After the Jews were expelled and foreigners alienated by political circumstances or repeated losses, the practice of taking loans from subjects began. This practice became habitual under Edward IV, and his successors followed his example. The Parliaments of Henry VIII more than once sanctioned the process by remitting his loans (21 Hen. VIII. 24; 35 Hen. VIII. 12). Elizabeth frequently took loans, especially towards the end of her reign, for instance, in 1569, 1581, 1589, 1590, 1596, and 1599, and probably on other occasions. She sometimes borrowed considerable sums from individuals, notably the wealthy merchants of London; on other occasions a loan was levied generally throughout the country. In 1581, nine rich merchants advanced a collective sum of £5,000; others contributed £15,000 in 1589. The general loan of 1569 produced over £20,000, that of 1589 nearly £50,000. In such cases the usual method seems to have been as follows (p. 134). Letters were written by the Privy Council to the Lords-Lieutenant, bidding them draw up a list of well-to-do persons in their counties, adding such lump-sums as in their opinion these persons might fairly be called upon to

contribute. The lists were then revised by the Council, and letters called Privy Seals were sent to the individuals in question (p. 136), ordering them to pay over to the collector named by the Lord-Lieutenant the sum at which they were assessed. Interest was sometimes paid, but not, apparently, in the case of the general loans. The loans appear to have been, as a rule, repaid, but not always punctually, for in 1589 we find one lender, Lord Mayor Martin, sending in a claim for £16,000, much of which had been for a long time due. That some discontent was caused, at all events in particular cases, and that pressure was sometimes required, there is abundant evidence to prove, but it appears that the practice was generally accepted during Elizabeth's reign.

James I, whose expenditure always exceeded his income, appears to have borrowed money frequently, not however by way of general loans, but from individuals. As was only natural, he experienced more difficulty than his predecessor: indeed we are told that when on one occasion, in 1610, after his breach with the Parliament, he had recourse to the rich merchants, he met with a point-blank refusal. The cessation of general loans for about a generation made Charles I's attempt to raise one in 1626 all the more unpopular. The loan of that year is commonly spoken of as the Forced Loan, but the epithet, if meant to indicate a distinction, is unfortunate, for this loan was hardly more compulsory than those of the previous century. The difference was that, whereas Elizabeth's loans were generally collected with little difficulty and the only pressure required was noiselessly applied by the Privy Council, the loan of 1626 was universally resisted and an ill-advised attempt was made to crush the resistance by imprisonment which attracted general attention. The result was Darnel's case and the Petition of Right.

(4) *Fifteenths and Tenths, and Subsidies.*

There remain to be considered the extraordinary parliamentary taxes, Fifteenths and Tenths, and Subsidies. Taxes on goods, as opposed to taxes on land, date from the latter part of the twelfth century. They were levied in varying proportions until the reign of Edward III, when it became habitual to take a fifteenth and a tenth, or two or more fifteenths and tenths, the smaller fraction being levied on the counties, the larger on the towns. About the same time the assessment appears to have become fixed. The various amounts paid by the different districts under the assessment of 1334 were afterwards retained without alteration, except that a large drawback was, in course of time, allowed in the case of decayed towns. Thus fixed, the Fifteenth and Tenth became practically a tax upon holders of lands and tenements, of a definite value, amounting (after making all deductions) to little more than £30,000. After a while it became obvious, not only that owing to changes of circumstances this tax pressed unfairly on certain districts, but that it did not fully utilize the resources of the country. It therefore became the practice to grant supplementary taxes called Subsidies. The word subsidy is at first loosely used—it is applied, for instance, to tunnage and poundage (p. 26)—but after the early part of Henry VIII's reign it came to mean a direct parliamentary tax of 4*s.* in the pound on the yearly value of land and 2*s.* 8*d.* in the pound on personal property. These proportions seem to have been taken in order to connect the older and newer methods, for the rate on land is two tenths and that on personalty two fifteenths of a pound. In theory the subsidy was freshly assessed on each occasion, but, as with other direct taxes, the assessment tended to become formal, with the inevitable result of a gradual diminution in amount. Thus a lay subsidy, which at the beginning of Elizabeth's reign is calculated to have amounted to about £100,000, was worth at the end of the century little more than £80,000.

A clerical subsidy (see above, p. xxxv) produced about £20,000 more.

The usual practice, not however by any means unvaried, was to grant two fifteenths and tenths to every subsidy. Such a normal grant was made in 1559 (p. 27). The special advantages which a subsidy possessed over the older tax were (1) that it covered all kinds of property; (2) that the new assessment allowed for changes in the value of land and the income of persons taxed; (3) that aliens, and subsequently recusants, paid a double rate; (4) that the assessment and collection were carried on under the superintendence of the central authority and with elaborate provisions against fraud or evasion. The fifteenths and tenths were levied by collectors appointed by the members of Parliament (p. 28) in their respective districts—probably a relic of the time when the members who voted a tax were responsible for collecting it themselves. In the case of subsidies, the chancellor, treasurer, and other great officers of state appointed commissioners for the larger districts and boroughs (p. 30), who in turn appointed collectors under them for the purpose of assessing and levying the tax. The whole machinery of collection is elaborately described in the Act. Peers were assessed and taxed directly by the chancellor and other high officials (p. 34). Exemptions were granted to the northern counties, Ireland, the Cinque Ports, and the Channel Islands, presumably on the ground of special military or other liabilities, as well as to Universities, schools, and hospitals (pp. 35, 36). In spite of the advantages possessed by subsidies over fifteenths and tenths, these two kinds of taxation continued to be combined in the parliamentary votes till 1624, after which fifteenths and tenths disappeared. Subsidies survived till 1663, when they too were finally superseded.

The Parliaments of Elizabeth were called upon to vote these taxes in almost every session. During the first thirty-five years of the reign the grants are fairly uniform and average between £40,000 and £50,000 a year. But from

the year 1593 they are largely increased, and during the last ten years of the reign the yearly average is more than £120,000. It was well for the national purse that the war with Spain was so long deferred. The early Parliaments of James I were very liberal. For his first two years he had the benefit of the large grant voted in 1601 (p. 106), which was to cover a period of four years. The war with Spain came to an end in 1604, but, in spite of this, Parliament made grants to James in time of peace almost as large as those they made to his predecessor in time of war. For the next six years his parliamentary income must have averaged over £100,000 a year. But this large revenue ceased in 1611, when the vote of 1610 ran out, and during the next ten years he received nothing from this source. The outbreak of the Thirty Years' War brought a change. The grant of 1621 was meagre, for the country had no confidence in James' policy: that of 1624, on the other hand, was the largest yet made (p. 279). But it was accompanied by conditions of a novel kind and of great constitutional importance. The system afterwards called appropriation of supply was not altogether new, for approaches to it had been made in the fourteenth century, but it was unknown during the Tudor times. It was a remarkable advance in the direction of parliamentary control when it was enacted (p. 279) that the money granted should be paid into the hands of treasurers nominated by Parliament, and applied in accordance with previous resolutions (p. 318) for certain specified objects, and for no other. To secure this end, the treasurers and the Council of War were made responsible to Parliament, with an express declaration that the houses themselves should punish any misappropriation of the funds. The earlier Parliaments of Charles I seem to have found this plan impracticable, but it was revived by the Long Parliament, and from 1668 onwards became the rule.

It should be mentioned in this connexion that the Commons already claimed, though as yet but tentatively, the exclusive right of determining the amount of taxation.

In the year 1593, when a subsidy bill was under discussion, the Lower House, having voted two subsidies, received a message from the Lords stating that they would not assent to less than three, and requesting a conference on the subject. After a speech from Bacon (p. 443), in which the principle in question was clearly stated, the conference was refused. It should however be pointed out that the bill was eventually modified as the Lords proposed, and that the Commons, as Bacon's speech shows, did not as yet claim the sole right of 'originating' money-bills, though they appear to regard deviations from this custom as exceptional. Throughout the period under review both Lords and Commons concur in granting subsidies (pp. 27, 279). It is not till 1625 that the Commons grant it alone.

(d) *Jurisdiction of Parliament.*

There is no such thing, properly speaking, as the jurisdiction of Parliament as a whole. Chief Justice Coke says indeed (Institutes, IV. 1, p. 23), 'It is to be known that the Lords in their house have power of judicature, and the Commons in their house have power of judicature, and both houses together have power of judicature.' But the precedents which he quotes to prove the last statement are taken from early times, and their applicability may be doubted. In an impeachment the Lords alone are judges, the Commons appearing only as accusers. An act of attainder is not a judicial proceeding at all, but rather, as was shown in Strafford's case, a substitute for it. Both houses however have, and had in the sixteenth and seventeenth centuries, separate judicial authority, that of the Lords being far wider than that of the Commons. Both houses have jurisdiction over their own members, and over persons, not being members, who violate their privileges (below, p. xciii). Beyond this the jurisdiction of the Commons does not go. The punishment inflicted on the town of Westbury in 1571 (p. 132), though it would now be considered an illegal

extension, might have been defended at the time on the ground of privilege, for bribery in an election is an attack upon the purity of Parliament. The case of Floyde in 1621 (p. 337) showed that the House of Commons cannot punish, however strongly it may disapprove, a misdemeanour which does not affect itself. The limits of its jurisdiction drawn by the Lords on that occasion (p. 338) were accepted by the Commons as agreeable to the law. It was indicative of their politic temper and constitutional spirit that they recognized their mistake, and retired with dignity from the false position into which their religious enthusiasm had betrayed them. It is remarkable, however, that they should have needed a second lesson, for in the case of Mitchell at the opening of the session, they had themselves recognized that they possessed no such separate jurisdiction[1]. The claim of the House of Commons to be considered a court of record was insisted on in 1604 (pp. 287, 329), and though at first denied by the king was afterwards acknowledged by him (p. 330) and by the Lords (p. 338).

The jurisdiction of the House of Lords is more important. The peers possessed the peculiar right of trying members of their own body when charged with treason or felony. This right they exercised, though with certain limitations (below, p. cxxvii) in several cases during the sixteenth century, for instance in the trials of the Duke of Norfolk in 1572 (p. 138) and of the Earl of Essex in 1601. Of their appellate jurisdiction in civil cases, and of the original jurisdiction which they occasionally claimed both in civil and criminal cases, nothing need here be said. But their jurisdiction in cases of impeachment, that is to say when any person was charged before them by the Commons of England with public crimes or misdemeanours, was of great constitutional importance. As a means of securing the responsibility of ministers, the weapon of impeachment was applied so far back as the reign of Edward III. During the century that followed it was occasionally used, but during the whole of the Tudor period

[1] Gardiner, *Hist. of Engl.*, iv. 42.

it lay idle. The cases of Buckingham and Strafford in Charles I's reign, of Clarendon and Danby in that of his son, are perhaps the most notable examples of its application to constitutional purposes. The instances that occur in the reign of James I are not of so high political importance, but they are of great moment as precedents which re-established the system after a long period of desuetude, and replaced in the hands of Parliament a weapon of tremendous power.

The first persons against whom this weapon was used during the period under review were a comparatively low class of offenders, the holders of patents and monopolies. The impeachment of Michell, Mompesson and others by the Parliament of 1621 was successful, but it was only indirectly of political importance. The patentees and monopolists were charged, not with political crimes, but with fraud and injustice. Nevertheless as monopolies had long been a political grievance, and the abuses connected with them had been tolerated, if not encouraged, by the court, the punishment of these persons might be regarded as a victory over the government. Still more damaging was the fall of Bacon (p. 334), for Bacon was a great official, the head of the law, and a trusted minister of the crown. Corruption in high places was struck at in his person, and though his crime was not political, his condemnation discredited the political system of the day. His case is also important from the fact that the House of Commons, jealous of its freedom of action, resisted the king's suggestion to change the mode of proceeding (p. 334), and maintained its rights of prosecution intact. The impeachment of Bacon, in respect of its political significance, falls half-way between the case of Mompesson in 1621 and that of Middlesex in 1624, as that again forms a stepping-stone to the case of Buckingham, in which the full constitutional importance of the method was for the first time displayed.

(e) *Parliamentary Privilege.*

As it was an essential part of the Tudor policy to rule by means of Parliaments, it was natural that they should do all that was in their power to render that body an efficient instrument. Hence it is not surprising to find that the sixteenth century, the period of despotic government, is also the period in which parliamentary privileges were for the first time clearly formulated, and, with one exception, confirmed. That exception is noteworthy. The privilege which was not established during the period under review, is that one which an autocratic sovereign could not afford to recognize, namely, the privilege of freedom of speech.

The practice of demanding recognition, at the opening of Parliament, of the three great privileges, freedom from arrest, freedom of speech, and freedom of access, which, together with a favourable construction of the proceedings of the House, form the staple of the Speaker's request at the present day, was a very modern institution in the time of Elizabeth. So late as the year 1515, the Speaker followed the practice of the preceding century, and asked merely for freedom of speech and of access for himself. Freedom of speech for members of the House in general was first requested by Speaker Moyle in 1542. The first recorded occasion on which the three customary demands were made occurs in 1554. In the first Parliament of Elizabeth we are vaguely told that the Speaker petitioned for 'the ancient liberties.' In 1562 the records give for the first time the exact words in which this petition was embodied (p. 117). The custom was, however, not even yet fully established, and it is not till after the year 1571 that it became habitual.

The frequency with which cases of privilege occurred, and, probably, the imprisonment of Cope, Wentworth, and others in 1587, led in the latter part of Elizabeth's reign to the appointment, at the opening of each session, of a standing committee for privileges. Such a committee was first appointed in 1589 (p. 117). A similar committee was

appointed at the opening of Parliament in 1593 (p. 118), and in 1597 and 1601, and from that time onward the practice was regularly followed.

Freedom of access to the sovereign was held to be the right of the peers individually, as hereditary counsellors of the crown. The members of the Lower House enjoyed the same privilege through their Speaker. This important official was the regular means of communication between the Queen and her faithful Commons. Both Elizabeth and her successor constantly made use of him to intimate their pleasure to the House (see index). On the other hand, it may be surmised from some remarks of the Lord Keeper in 1593 (p. 125) that the privilege of access on behalf of Parliament was so frequently used as to try the royal patience somewhat severely.

The privilege of freedom from arrest during a session of Parliament, and for a certain time before and after, in all cases except treason, felony and surety for the peace, belonged equally to both houses. In the case of the Lords, if precedent were required, the privilege may be regarded as established by the release of Lord Cromwell (p. 126), on which occasion the Upper House placed on record a formal statement of their right. In the case of the Commons the privilege was confirmed not only by several early precedents, but by the statute of 1433 (11 Hen. VI. 11). The case of Speaker Thorpe in 1453 could hardly create a precedent to the contrary, for on that occasion the judges declared in favour of the privilege. Ferrer's case, in 1543, is remarkable as being the first in which the House of Commons took the law into its own hands. They refused the intervention of the chancellor, and released their member by means of a direct demand. This was an important step in the direction of independence, but the precedent was not immediately followed. So late as the year 1556 the House applied to the Chancery for a writ in favour of a burgess named Gardiner. But towards the end of the century several cases occur by which not only the privilege itself, but also the right to

enforce it by independent action may be regarded as fairly established. Such cases are those of Martin in 1587 and of Fitzherbert and Neale in 1593 (p. 127). The two first of these cases are important as fixing the time during which the privilege could be claimed. In spite of these precedents, the privilege was violated in the first Parliament of James I, and it was only by dint of great perseverance and the use of very strong measures that the House of Commons maintained its position. The difficulty in Sir Thomas Shirley's case (pp. 320–323) arose from the fact that, if a person detained for debt were released, the creditor lost his claim, and the gaoler (under Stat. 7 Hen. IV. 4) was liable to an action for letting him go. The Warden of the Fleet prison, in which Sir Thomas Shirley was confined, obstinately refused to obey the commands of the House of Commons, and not even imprisonment in a dungeon of the Tower could for some time overcome his resolution. The House was on the point of calling the chancellor to its aid, but this retrograde step was fortunately avoided, and the case ended in a complete victory for the Commons. It necessitated the passing of no less than three Acts of Parliament, one general and two particular. One of the two latter, in which the claim of the House, the immunity of the warden, and the rights of the creditor are all preserved, is printed below (p. 324). The general Act, intended to obviate all such difficulties in future, is given on p. 254[1]. From this time onward the privilege was secure.

At a time when, for the sake of personal protection as well as for other reasons, the regular attendance of servants was indispensable, it was only natural that the privilege of freedom from arrest should be extended to persons in the service of members of Parliament. It needed, however, many precedents to establish it in the sixteenth century. The case of Digges in 1584 (p. 128) proves that the Lords could enforce it without appeal to any extraneous authority. Another case, that of Finnies in the same year, shows that

[1] See, for a full account of the case, *Engl. Hist. Review*, vol. viii. p. 733.

the privilege was confined to bona fide menial servants. Many cases in connexion with the House of Commons occur before the well-known one of Smalley in 1576 (p. 128). The chief importance of this affair lies in the fact that, whereas in previous cases the prisoner was released by a writ of privilege from the Chancery, in this case he was released by the direct action of the House. The precedent so established was afterwards maintained. It may be remarked that Smalley and his master, Hall, were subsequently instrumental in illustrating at their own cost other privileges of the House of Commons (pp. xciii, 131).

The exemption from the duty of giving evidence in a law-court and from sitting on juries, may be considered in connexion with the right of freedom from arrest, for both are based on the paramount necessity of attendance at another and that the highest court of the realm. The exemption from service on juries seem to have been fairly established during Elizabeth's reign (p. 129). In regard to summons by a subpoena, the matter is not quite so clear. The privilege appears to have been established as against the Star-Chamber and inferior courts, but not against the Chancery. This court resisted the claim of the House in 1585 (p. 129), and again in 1597, when the Lord Keeper declared that 'to revoke the subpoena was to restrain her Majesty in her greatest power, which is justice[1].'

The rights to determine questions connected with membership of the House, to control, punish, or expel its own members, and to punish attacks made upon the House collectively or upon its members as individuals, are not among the privileges demanded by the Speaker, but were necessary in the sixteenth and seventeenth centuries to the efficiency and independence of Parliament. These rights were established during the period under review.

The returns to writs for parliamentary elections were by an Act of the year 1406 (7 Hen. IV. 15) made returnable into Chancery (p. 328), but during the fifteenth century

[1] *D'Ewes' Journals*, p. 554.

questions arising out of them are said to have been determined by the King and the Lords. It was not till the reign of Elizabeth that the House of Commons claimed the right of settling these questions. The first occasion on which it appointed a special committee to examine the returns appears to have been in 1581[1]. A similar committee was appointed in 1584[2]. What these committees did is not recorded, but their proceedings probably formed precedents for the conduct of the House in 1586. The chancellor and the judges undertook in that year to settle a disputed election for the county of Norfolk, but the Commons resolved (p. 130) that in so doing they were exceeding their jurisdiction. As the House came to the same conclusion as the chancellor with respect to the point in debate, that officer perhaps thought it was not worth while to discuss the question of jurisdiction; at all events he appears to have acquiesced. It was probably owing to this affair that the duty of examining returns was entrusted in 1593 (p. 118) and subsequently (p. 328) to the standing committee for privileges. During the rest of the reign the Commons seem to have been allowed to reap the fruits of their victory. But the question was not settled: it reappeared in the famous case of the election for Bucks in 1604. When James' first Parliament was summoned, he took the unusual step of issuing a proclamation (p. 280), in which he not only dictated to the electors and to the officers concerned the conduct which they ought to pursue, but expressly ordered that the writs should be returned into Chancery. When Parliament met it was found (p. 325) that the first election for the county of Bucks had been quashed and a second election held. The House of Commons, after going into the matter at length, declared the first election good, and admitted Sir Francis Goodwin, the knight first elected, to his seat. In taking this step they deliberately ignored the king's proclamation, which must have been known to every member of the House. A long dispute

[1] *Commons' Journals*, i. 129.
[2] *D'Ewes' Journals*, pp. 337, 344.

ensued, in which the Commons, with an almost humorous combination of deference and firmness, defended their position so well that the king was forced to give way. A compromise was arranged, in accordance with which both decisions were set aside, and a new election ordered (p. 331). Taken alone, the Bucks election would hardly have made a satisfactory precedent, but the victory practically remained with Parliament. On the very day on which the new writ for an election for the county of Bucks was issued, the House determined, without contradiction, two other disputed elections (pp. 331–333). These cases may be taken to have established the privilege, which was never afterwards assailed.

The right of determining the qualifications for membership is closely connected with that of examining returns. General rules on this subject could only be made by Act of Parliament, as was done by the statute of 1413 (1 Hen. V. 1), which decreed that only resident knights or burgesses could be elected. As has already been observed (above, p. lxv), this statute had become obsolete. A bill to repeal it was introduced in 1571, but after being twice read was allowed to drop[1]. On the other hand, precedents were set in individual cases which practically had the force of law. Thus Smyth's case (1559) decided that an outlaw could sit, while Lord Russell's case in 1576, following on a similar case in 1549, conferred the same right on the eldest sons of peers (p. 131). The decision in Smyth's case was upheld in that of Vaughan (1581)[2], while in the case of Fitzherbert (p. 127) a distinction was made between outlawry in a private suit and outlawry at the suit of the crown. This distinction recurs in the Bucks election case (p. 329). By admitting Goodwin the Commons only confirmed their previous decisions, but they declared their intention of bringing in a bill to disqualify outlaws in future. The question of lunacy has in recent times given some trouble, but the House settled it without difficulty in 1566, in the case of a

[1] *D'Ewes' Journals*, pp. 168 ff.
[2] *Commons' Journals*, i. 124.

Mr Perne, elected for Grampound, and 'reported to be a lunatic,' by simply issuing a warrant for a new election[1]. The election for Cambridge in 1621 (p. 333) settled that returning officers could not return themselves.

The right of the House of Commons to punish its own members was proved in the case of Peter Wentworth (p. 122), whose first committal in 1576 was due to the action of the House itself. The right was still more forcibly illustrated in the case of Hall (1581), who, for a libel on the Speaker, was not only fined and imprisoned, but expelled the House (p. 131). Dr Parry was in 1584 committed to the Serjeant's ward for a violent speech in opposition to the bill against Jesuits, and was subsequently expelled[2]. The right may be said to have been strained in the cases of Sir R. Floyde and Mr Shepherd, who were expelled in 1620, the one for the crime of being a monopolist (p. 333), the other because he had spoken disparagingly of the Puritan Sabbath.

Many cases occur in which the House exercised the right of punishing those who violated or abused its privileges or assaulted its members. In 1543 the sheriffs who had arrested Ferrers were committed by order of the House. The imprisonment of the Warden of the Fleet and others in 1604 is an instance of the same kind (pp. 321, 322). Smalley, whose release in 1576 (see above, p. xc) had illustrated the immunity of members' servants from arrest, was afterwards discovered to have fraudulently procured his arrest in order to escape payment of his debt, and was severely punished by the House[3]. The case of Williams (p. 132) illustrates the special protection from assault conferred upon members of Parliament. This privilege was probably of very old standing, for it had been extended by an Act of Parliament in 1404 (5 Hen. IV. 6) even to members' servants. The right of committal was applied

[1] *Commons' Journals*, i. 75.
[2] *D'Ewes' Journals*, p. 352.
[3] *Ib.*, p. 258.

in the same year to protect the privacy of debate (p. 133), a privilege which Parliament enjoyed in common with other high courts of law.

But all these privileges were of comparatively little value if the one thing needful, freedom of speech, were denied. This all-important privilege, it must be allowed, was not completely established until the Long Parliament. The rare cases, such as that of Wentworth and Parry (above, p. xciii), in which the House itself placed restraints upon its members, need not receive more than passing notice. What requires consideration is the extent to which the crown interfered to check liberty of debate. The cases of Haxey in 1397 and of Strode in 1513 are well known. In both cases the privilege was successfully vindicated, but Strode's Act (4 Hen. VIII. 8), though it barred actions against members of Parliament by other courts or private individuals on account of things said or done in Parliament, was evidently not regarded as capable of application against the crown. The control exercised by Elizabeth over the introduction of bills, especially such as concerned religion, has already been noticed (above, p. lxvi), and interference with legislation cannot in practice be distinguished from limitations on freedom of speech. Apart from ecclesiastical affairs, there were certain other subjects which the queen was very unwilling to submit to public discussion. Such were the questions of her marriage and the succession to the crown. But these were matters of such grave public interest, especially in the earlier part of her reign, that discussion of them was inevitable. Elizabeth's first Parliament presented a petition, begging her to marry, to which she gave a gracious answer, couched in the enigmatical style in which, when she chose, she could show herself so remarkable a proficient. The House expressed its satisfaction, but when, four years later, it met again and nothing had been done to appease its anxiety, it could not help recurring to the subject. The petition of 1563, at once respectful and pressing, is printed below (p. 107). The queen's answer

(p. 109) amounted to a distinct refusal to show her hand. On these occasions, when we consider the imperious character of Elizabeth and the critical nature of the times, it will be allowed that the House displayed some boldness and the queen an exemplary patience. But when in 1566 Parliament manifested its intention to persist in putting pressure on her, she could bear it no longer. She began by intimating her dislike of their proceedings, and finding her hints disregarded, she peremptorily stopped the debate (p. 118). It was in vain that Paul Wentworth raised the question of privilege. The queen had the good sense to revoke her formal prohibition, but her displeasure was so strongly expressed that the matter was allowed to drop. At the close of the session the Commons received a severe scolding from the sovereign in person for their inopportune and hazardous persistence[1].

The middle period of the reign, as it was the most critical for the safety of the country, was also that in which liberty of speech was most likely to be restrained. At the opening of Parliament in 1571, the Lord Keeper, after indicating the subjects which required attention, took occasion, in answer to the Speaker's request for privileges, to intimate plainly (p. 119) that the House would not be allowed to stray beyond these bounds. The threat was followed by the inhibition of Mr Strickland, who had ventured to move for a committee on ecclesiastical matters and subsequently to introduce a bill 'for the reformation of the Book of Common Prayer.' This high-handed act aroused so much resentment (p. 119) that Strickland was allowed to return to his place, but the queen had her way with respect to the bill. In the same session another member, Mr Bell, who had called attention to the abuse of licenses, was summoned before the Council and reprimanded[2], while a bill of attainder which was being prepared against Mary Queen of Scots was stayed by order of the crown. The Lord Keeper wound up the session with

[1] *D'Ewes' Journals*, p. 116. [2] *Ib.*, p. 242.

a speech in which the 'audacity and presumption' of certain members was severely blamed. The conduct of the government in this session, and in that of 1572 (p. 120, and above, p. lxvi), led Peter Wentworth to make a formal remonstrance in the Parliament of 1576 (p. 120), but all he gained by his courageous protest was a month's imprisonment in the Tower by order of the House itself. It was by the queen's intervention that he was at length released. Sir W. Mildmay, speaking on this occasion (p. 122), made a distinction between liberty and licence, which obviously left it in the discretion of the government to draw the line where it pleased. In 1587 Wentworth returned to the charge, and drew up a series of questions (p. 123) intended to clear the way for the discussion of certain proposals made by Mr Cope, touching alterations in the Prayer-Book. It is hardly necessary to say that these questions were not put to the House. The revised book and the bill intended to secure its adoption were sent for by the queen, and Cope and his supporters, after an interview with the Privy Council, were committed to the Tower. The same policy was pursued in 1593, when Wentworth and three other members were imprisoned for approaching the House of Lords with a view to a joint petition for the settlement of the succession, while Mr Morrice was secluded for presenting a bill for the reformation of the church-courts[1]. These despotic proceedings showed the determination of the government to maintain the limitations set by the Lord Keeper in his speech at the opening of Parliament (p. 124). The petition for judgement against Mary Queen of Scots, which was presented in 1586 (p. 109), with the passages that followed, form no real departure from the rule, for it is clear that at this time Elizabeth was not unwilling to undergo the pressure which she resented in 1572, while her curt and imperious answer (p. 111) proves her resolution, in spite of this partial concession, to keep the final decision in her own hands.

These repeated repressions of parliamentary activity

[1] *D'Ewes' Journals*, pp. 470, 478, 497.

generally acquiesced in or at most but feebly resented, show that freedom of speech had made little progress during the sixteenth century. But the respect for the crown, the confidence reposed in its policy, and the personal loyalty felt towards the sovereign, which made Elizabeth's Parliaments so submissive, gave way to different feelings in the following reign. It is hardly likely that James' first Parliament, which fought the battle of privilege so stoutly in the cases of Goodwin and Shirley, would have tamely submitted had the king restricted their liberty of speech in the peremptory manner of his predecessor. But a good understanding was on the whole maintained during the early part of the reign, and no collisions of this kind occurred. The first attack on liberty of speech was made in 1614, after the dissolution of what was known as the Addled Parliament. That assembly had obstinately refused to grant supplies unless the king would abandon his claim to impositions. Finding the king immoveable, they attacked the courtiers and the favourites. It was indicative at once of James' timidity and of his unwisdom that he did not check the leaders of the opposition while the House was sitting, but punished them when nothing was to be gained. After Parliament had broken up, the more violent speakers were sent to the Tower; others were ordered to remain in London; others again were struck off the commission of the peace. In 1621 James went further. The first session of that year was in the main successful and harmonious, but the king showed his displeasure against Sandys, who had already suffered in 1614, by imprisoning him during the adjournment. When the House met again, questions were asked as to the cause of his detention. In an arrogant and ill-tempered message (p. 310) James not only declared his intention of punishing any member whose conduct might appear to him to merit punishment, but forbade the House to proceed with the discussion of foreign affairs, respecting which they had already drawn up a petition (p. 307). The reply of the Commons (p. 311) was temperate but firm. They insisted on their

right to discuss foreign affairs, and on the recognition of liberty of speech as their 'undoubted inheritance' (cf. p. 288). On this point James joined issue. His remark—'set chairs for the ambassadors'—made on the arrival of the parliamentary deputies, showed that he was not blind to the fact that Parliament had, whether it knew it or not, assumed the position of an independent power. From this position he was resolved to drive them. His rejoinder (p. 312) challenged the rights which they had claimed, and asserted that their privileges, far from being heritable possessions, depended merely on the sovereign's grace. Such an assertion was destructive of the objects for which Parliament existed. The famous protest of 1621 (p. 313) was the result. It was in vain that the king tore it from the book: it remained engraved on the heart of the nation. The imprisonment of Coke and other leading members was equally futile: in the Parliament of 1624 James was forced to yield all that the Parliament of 1621 had demanded. More than half a century elapsed before the final victory was won, but the Long Parliament, the Revolution, and the Bill of Rights merely developed and established the principles on which the men of 1621 had taken their stand.

IV.

Council, Ministers and Star-Chamber.

If the control over legislation and taxation was mainly in the hands of Parliament, the command of the executive belonged exclusively to the sovereign, acting either alone or through the Council. Over this body Parliament had no control. The fact that Privy Councillors were almost always members of one or other House was not, in the period under review, a means whereby the larger body could influence the smaller: on the contrary, it enabled the Council more easily to sway the mind and guide the actions

of Parliament. How much influence the Council could bring to bear upon the crown it is difficult to say. The extent of that influence depended mainly on the personal character of the sovereign. It was certainly larger in the days of the Stewarts than in those of the Tudors, but even under the most self-willed monarchs of that imperious line it must have been considerable. For though the sovereign nominated the members of the Council (p. 179) and personally superintended all the other departments of State, he was forced, even if as watchful and laborious as Henry VIII or Elizabeth, to leave much to his subordinates. Men of the type of Burghley and Walsingham, Mildmay and Henry Sydney, Knollys and Robert Cecil, were no servile instruments. Apart from the force of routine and the influence inseparable from the management of details, the counsel and experience of such men must have largely modified the policy of the State. If this was the case under Elizabeth, it was much more so under James, whose constitutional indolence and carelessness left public business mostly in the hands of ministers. The great difference between these sovereigns, so far as their attitude towards state-officials is concerned, lies in this, that Elizabeth, though she had her favourites, never trusted them with supreme control, whereas James allowed them to direct the government. Leicester, Hatton and Essex were loaded with gifts and had ready access to the sovereign's ear, but it was Burghley who governed for the queen; Buckingham, on the other hand, was Leicester and Burghley rolled into one.

The Council, or Privy Council—for these titles are indiscriminately used—was not, during this period, a large body. It numbered, as a rule, about seventeen or eighteen persons, most of whom were high officers of State. Its members took a special oath (p. 165). The only survival of the old 'concilium ordinarium' as distinguished from the inner, confidential body, the Privy Council, which had gradually engrossed its functions, is to be found in the existence of certain legal quasi-councillors, 'the Queen's Counsel learned

in the law' (pp. 167, 403), whose advice or assistance might be required in legal matters, but who otherwise had no part in the business of the Council. Under Elizabeth the councillors were, with rare exceptions, laymen: even under James I the clerical element was small and comparatively unimportant. The Church had now resigned all claim upon the great temporal offices: no churchman held such offices under Elizabeth; Bishop W[illiams], who became Lord Keeper in 1621, was the only e[xcep]tion under James I. Among the great officers, the Lord Chancellor still possessed a technical precedence. The great seal was occasionally put in commission, but only for short intervals. A Lord Keeper often appears instead of the chancellor, but this made no practical difference, for, by an Act of 1563 (5 Eliz. 18, p. 441), their authority was declared identical. The political influence of the chancellor was, however, not what it had once been: the position of the first minister, if it is not premature to use the phrase, was held by others, sometimes by the treasurer, sometimes even (as was the case with the Cecils) by the secretary. In James' reign the Treasury, like the Chancery, was sometimes put in commission.

Of the other great officers nothing need here be said, but the office of Secretary, or Principal Secretary, deserves more than passing notice. These officers—for at this time there were generally two—were characteristic instruments of the Tudor system. Their origin, indeed, lies much further back, but their political importance dates from the establishment of the Tudor autocracy, and is indicative, we might almost say, of the beginning of government in the modern sense. During the Middle Ages life was simple, and government was largely a matter of laissez-faire: it was for the most part occasional and spasmodic, negative rather than positive, coercive rather than educational. It consisted chiefly in collecting taxes, suppressing rebellions, and maintaining the authority of the common law. The relations with foreign powers were broken and irregular; permanent embassies were unknown. But with the Tudors life became more complex,

foreign affairs more engrossing, and government entered on a new phase. It became universal, constant and penetrative: it began to regulate, with increasing minuteness, the ordinary affairs of life: it added direction to control. Legislation grew by leaps and bounds. New machinery was invented, or old machinery expanded, to execute the laws; while the free spaces left by statute were constantly narrowed by ordinance and proclamation. In this development the Council took the chief part, and in the work of the Council the secretary became more and more indispensable. The ancient departments, the Church, the Law, the Revenue, the Court, the Navy, might be left to the old officials —the Archbishops and Bishops, the Chancellor and the Judges, the Treasurer and the Chancellor of the Exchequer, the Steward, the Admiral, with their ancient courts and their new assistants—but local government, industry and trade, the colonies, Ireland, and above all the diplomatic relations with foreign States, required constant attention. For these matters the sovereign was primarily responsible, but it was chiefly through the secretary that he exercised his supervision. Through this channel he conveyed his pleasure to the heads of departments, to the Lords-Lieutenant, to the Councils of the North and of Wales, to the Lord Deputy in Ireland, to the ambassadors abroad. The secretary was responsible for the minutes of the Council, and was expected to act as a repository of all useful information. Some of his multifarious duties are noted in a memorandum printed below (p. 166). His office is the germ from which the great secretarial departments of the present day have sprung.

The powers of the Council in its corporate capacity were so wide and various that anything like a full description of them would require a separate treatise. It has been rightly said that the period of the Tudors and the early Stewarts was the 'period of government by Council.' In other words, it was in and through the Council that the absolute monarchy performed its work. Representing the sovereign, who was always supposed to be present there (p. 183), the Council

supervised the administration of the laws, regulated trade and wages, banished rogues, dealt with obstinate recusants, granted licences to travel, restricted the press, administered oaths of allegiance, reprimanded juries, kept an eye on the law-courts, the justices of the peace, and the great Councils of the North and Wales, and even to some extent controlled the Church. It deliberated on all affairs of State, searched out plots, took measures to suppress rebellions in Ireland or to repel an invasion of the coasts, called out the national forces and directed the movements of the fleet. It was constituted, with the addition of certain other persons, a council of regency in the case of the queen's sudden death (p. 81). In its right to issue orders or ordinances, e. g. for the censorship of the press, it possessed a semi-legislative power: through its commercial regulations, its management of loans and benevolences, and its determination of military liabilities, it shared control over taxation: finally it possessed a widespread and peculiarly despotic jurisdiction.

This jurisdiction was partly appellate, partly original. The supreme jurisdiction of the king in Council was, as Bacon says (p. 408), through all the changes and development of the judicial system, always reserved. The appellate jurisdiction of the Council in civil cases does not seem to have been seriously objected to, and, surviving the Long Parliament, has continued till the present day. Its original criminal jurisdiction was of far greater constitutional importance and requires longer notice. Many complaints had been made against it in the fourteenth century, but in the early part of the Lancastrian period the control which Parliament obtained over the Council modified this jealousy, and Acts were passed (e. g. 13 Hen. IV. 7; 2 Hen. V. (1) 8, confirmed by 19 Hen. VII. 13) which conferred upon it statutory powers to punish riots. These powers were extended in 1453 (31 Hen. VI. 2), so as to cover other misdemeanours. The famous Act of 1487 (3 Hen. VII. 1) is therefore no isolated phenomenon, but is to be considered in connexion with the foregoing statutes. It created

a new court, consisting of certain great officials and other members of the Council, with two judges, and endowed it with large but specific powers. This is the court afterwards known as the Star-Chamber, and abolished in 1641. The Act of 1487, while setting up this new machinery, did not repeal the above-mentioned Acts, or in any way limit the jurisdiction, partly customary, partly statutory, exercised by the Council. For some time the Council and the court remained quite distinct, and their jurisdictions, though at least partially overlapping, were exercised concurrently. Since three-fourths of the members of the court were Privy Councillors, this need not have led to any collision. That the court of 1487 existed in its original form down to the year 1529 is clear from an Act of that year (21 Hen. VIII. 20), by which its jurisdiction was confirmed, and the President of the Council added to it.

But about the middle of the sixteenth century an important change took place in its composition. The Star-Chamber, as we know it in Elizabeth's reign and subsequently, is no longer the small body constituted in 1487, but a court consisting of all the members of the Privy Council together with the two chief justices. This is clear not only from the evidence of contemporary writers (pp. 175, 180, 182, 403, 408), but from many incidental allusions, and from the records of the court. These records[1] show that, while the court was sometimes smaller in respect of numbers than that constituted in 1487, it was generally much larger, and that a bishop was not by any means always present. This discrepancy has led some eminent writers to conclude, that the court established in 1487 was not the Star-Chamber, that it ceased to exist about the middle of the sixteenth century, and consequently that the Star-Chamber (that is, the court known by that name in the reign of Elizabeth and afterwards) could not base any

[1] Some notes from Charles I's reign are published in 'Cases in the Star-Chamber and High Commission,' Camden Society, 1886.

of its jurisdiction on the Act of 1487[1]. But there does not appear to be sufficient ground for this conclusion, and it is opposed to the tradition of the sixteenth century, which, in a matter of so recent date, may probably be trusted. The Act of 1487, though no name is mentioned in the body of the Act, is headed 'Pro Camera Stellata.' This phrase might be taken to imply that the 'Camera Stellata' already existed, and that the Act merely confirmed and expanded its jurisdiction (cf. 175, 408); but however this may be, we may certainly infer that, at the time when the Act in question was enrolled, the court which it created was regarded as 'the Court of Star-Chamber.' The Statute of Retainers, passed in 1503 (19 Hen. VII. 14, § 6) mentions the jurisdiction of 'the Lord Chancellor of England . . . in the Star-Chamber' as concurrent for the purposes contemplated in the Act with the jurisdictions of 'the King and his Council' and the 'King in his Bench.' A Statute of 1536 (28 Hen. VIII. 10, §§ 4, 5) orders that certain offenders shall be bound over to appear 'before the King and his Council in the Star-Chamber at Westminster,' and that the bonds for their appearance are to be certified 'into the Star-Chamber.' It may perhaps be inferred from this Act that the expansion spoken of above had already taken place. That in 1563 the court was believed to have had, so far, a continuous and unbroken existence, is proved by a Statute of that year (5 Eliz. 9, § 7), which provides 'that this Act . . . shall not . . . restrain the power given by Act of Parliament made in the time of Henry VII to the Lord Chancellor and others of the King's Council for the time being, to examine and punish riots [&c.]: which Lord Chancellor and others since the making of the said Act have most commonly used to hear and determine such matters in the court at Westminster commonly called the Star-Chamber.'

These extracts seem conclusive of the point that the court

[1] Hallam, *Const. Hist.*, i. 54 note; but cf. Stubbs, *Lectures*, p. 362; Gneist, *Verf. gesch.*, p. 508.

established in 1487 was historically identical with the court known in Elizabeth's reign as the Star-Chamber, and the conclusion is confirmed by all contemporary writers on the subject. In default of clear evidence it seems reasonable to suppose that, at some time between 1529 and the earlier part of Elizabeth's reign—perhaps even before 1547—by some process of which we have no record, whether by an ordinance of the crown similar to that of 1529, or by a gradual and unobserved amalgamation with the larger body, the composition of the court underwent a change. The fact that the Council and the court exercised very similar jurisdictions, and that the court was at first little more than a committee of the Council (cf. p. 182), facilitated this process. When once the Privy Councillors, as a body, had come to be regarded as ex-officio members of the Star-Chamber, it was only natural that the Council should gradually transfer its criminal jurisdiction to the latter. The two bodies (with the exception of the justices) being now identical, it mattered little in which capacity, as Councillors or as Star-Chamber judges, their members discharged their judicial functions; and since there was a better statutory foundation for the jurisdiction of the Star-Chamber than for that of the Council, while in the former they had, what they had not in the latter—the assistance of legal advisers—it was more convenient to discharge those functions in the Star-Chamber. The relation between the Privy Council and the Star-Chamber during the period under review thus resembles very closely that which existed between the Curia Regis and the Exchequer in the early part of the reign of Henry II.

But the change described above laid the court open to legal objections which were eventually fatal. The old dislike of the conciliar jurisdiction, though it was latent during the Tudor times, had never been altogether appeased, and it revived in the seventeenth century. Now only a part, and that probably the smaller part, of the jurisdiction exercised by the Star-Chamber in the seventeenth century could be based on the Act of 1487. It was on this ground that

Chambers in 1629 resisted its judgement. The Exchequer, holding that the Star-Chamber existed long before 1487, and therefore did not depend for its jurisdiction on the Act of Henry VII, rejected the plea. In this decision they took the line already taken by authorities so diverse as Coke (p. 401) and Bacon (p. 408). Those great lawyers may have been incorrect in saying that the 'Court of Star-Chamber,' that is, a court known by that name, existed before the Tudors; but they are right in their main contention that the court as they knew it, that is the Privy Council in its judicial capacity, could trace its jurisdiction to a far earlier date. Nevertheless the lawyers of the Long Parliament, when they abolished the Star-Chamber, justified their action on the ground that it had exceeded the powers conferred upon it by the Act of 1487. Some confusion in regard to the antiquity of the name of the court has been caused by the fact that, so far back as the reign of Edward III, a room called the Star-Chamber, the *chambre des étoiles*, was used by the Council, whether sitting judicially or otherwise; while in the sixteenth and seventeenth centuries the Council transacted much of its non-judicial business in the same room (e. g. p. 168).

The jurisdiction of the court, and its method of procedure when at the height of its activity and the zenith of its power, are too well known to require discussion here. They are described in the passages printed below, and illustrated by every history of the time. It is worth while, however, to call attention to the fact that, at least till the end of the fifteenth century, the court was neither regarded with dislike nor charged with illegality. Historians like Camden, lawyers like Coke, statesmen like Smith, philosophers like Bacon, country gentlemen like Lambard, combine in its praise. In the reign of Elizabeth it was looked upon not as an instrument of tyranny but as the guardian of order, while even in that of James I, a very large part of the business that came before it arose from suits brought by private persons. It was not till the king and the nation were at

variance that it was used to maintain a hateful despotism. It is even possible that, had it kept clear of ecclesiastical affairs, it might have escaped the fate that overtook it in 1641. It was apparently Whitgift who first led it into these thorny paths. Under his influence, and subsequently under that of Laud, it sometimes dealt with cases which ought, if dealt with at all, to have been dealt with by the High Commission, and thus religious feeling had no little share in the ruin of an institution which had been called into being to suppress baronial anarchy.

V.

The Judicature.

The constitutional importance of the judicial system in the sixteenth and seventeenth centuries may be inferred from the following considerations. The old province of the common-law courts was not only narrowed by the equitable jurisdiction of the Chancery and (till 1599) of the Court of Requests, but it was invaded on several sides by the later developments of the ecclesiastical tribunals. It was further encroached upon by the Star-Chamber, by the local courts framed on the model of that institution, and by other courts such as the Admiralty. The growing jurisdiction of the justices of the peace, while it conduced to the maintenance of law, lightened the duties and diminished the importance of the justices of assize. Again, the common-law courts were used by the Stewarts to support their claim to absolute authority, especially in regard to financial exactions, and judges such as Coke and Crew, who refused to further the wishes of the crown, were liable to dismissal. Closely connected with this was the practice, often adopted by the two first Stewarts, of consulting the judges about constitutional questions in an extra-judicial manner, a method obviously open to grave abuses. The rules of common-law were occasionally set aside in favour of parliamentary

privileges, or temporarily suspended by the establishment of martial law in particular districts or for certain classes of persons. They were repeatedly strained or violated by the high-handed action of great officials or members of the Privy Council, by the evasions of statutes and the creation of special tribunals in political trials, and by the subservience or intimidation of juries. Lastly, the great extension of the law of treason placed many persons in danger of their lives for acts which were not previously treasonable or which were unlikely to be committed except in circumstances peculiar to the Tudor and Stewart times.

An account of the ancient Supreme Courts, the King's Bench, the Common Pleas, and the Exchequer, together with the High Court of Chancery, which underwent no important changes during this period, would be out of place here. It is worth a passing mention that the Court of Requests, a sort of poor-man's Chancery, presided over by the Lord Privy Seal, was in 1599, after an existence of some two centuries, declared by the court of King's Bench to have no judicial powers. In spite of this decision, which illustrates the very insecure foundation on which a large part of the Tudor system stood, the extant records of the court show that it continued to act until the Long Parliament. Much importance has been attached to the fact that the judges of the High Courts of Justice retained office 'at the good pleasure' of the crown. That this was not always the case is shown by the Commission to Baron Flowerdue, printed below (p. 143); and Coke (Inst. IV. 117) tells us that the Chief Baron always held office on a permanent tenure. This distinction was not worthless, as is shown by the case of Chief Baron Walter, who in 1629 refused to surrender his patent without a fair trial: but the king practically attained his object by forbidding Walter to take his seat upon the bench. It should be mentioned here that a court of appeal from the King's Bench called the Court of Exchequer-Chamber, and consisting of the Justices of the Common Pleas and the Barons of the

Exchequer was established in 1585 (27 Eliz. 8). A similar court for appeals from the Exchequer was created in 1589 (31 Eliz. 1). For some purposes, e. g. in the post-nati case and in that of Hampden, all twelve judges were associated together. The commissions of 'Oyer and Terminer' and 'Gaol Delivery,' under which the justices went on circuit, are printed below (pp. 361, 363). For this purpose the English counties were now divided into six circuits, and the justices of both benches, with the Barons of the Exchequer and the Lord Chancellor, were employed. It was probably to facilitate their participation in these duties that the Barons of the Exchequer were in Elizabeth's reign placed on a level with the justices of either bench (cf. p. 143).

One of the most striking features of the Tudor system was the large number of courts possessing special jurisdiction or dealing with limited districts. Several of these were established in the sixteenth century, but some were of older date. One group of these courts was associated with certain great officers, such as the Lord Steward of the Household, the Lord Admiral (see below, p. cxii), and the Earl Marshal. Another group dealt with special branches of the revenue: such were the Court of Augmentations and the Court of First-fruits and Tenths, the outcome of the Reformation, and the Court of Wards and Liveries, which maintained the feudal rights of the crown. A third group consisted of the older palatine and local courts, the Courts of the Duchy of Lancaster and the County of Chester, and the Stannary Courts in the Duchy of Cornwall. The forest-courts, which still maintained a certain jurisdiction over considerable tracts of country, are among the oldest of these local tribunals.

But none of these special courts was so important or so characteristic of the Tudor times as the courts of the President and Council in the North Parts and of the President and Council of Wales and the Marches. The Council of the North was set up in 1539, but appears to have had no

statutory basis. It was, however, recognized in an Act of 1540 (32 Hen. VIII. 50), and also in one of 1571 (13 Eliz. 13). The Council of Wales existed before 1542, but was confirmed by Act of Parliament in that year (34 Hen. VIII. 26). Both institutions, it must be allowed, had some original justification in the circumstances of the districts over which they ruled. The lawlessness of the Scottish border is well known, and special measures for the maintenance of order in these unruly districts were not unfrequently legalized by Act of Parliament (pp. 105, 270). The union of 1603 did not by any means immediately put a stop to the evil (p. 269). Moreover the whole of the North was in a backward condition and more or less tumultuous. In this district—not to go further back than the sixteenth century—originated the Pilgrimage of Grace in 1536 and the rebellion of the Northern Earls in 1569. The condition of the Welsh border had been in former days as bad as that of the Scotch, and though the principality had become so far civilized as to be represented in Parliament, it was still regarded as a half-conquered country, requiring distinct treatment. The Act of 1542 (34 Hen. VIII. 26), which conferred Parliamentary representation upon Wales, also gave the King (§ 119) power 'to make laws and ordinances' for that country 'at his pleasure,' and this clause was not repealed till 1624 (p. 277). There was less excuse for the Council of the West, erected by Statute in 1540 (32 Hen. VIII. 50) on the model of the Councils of Wales and of the North, and this court had but a brief existence.

The Council of the North exercised jurisdiction over the shires of Northumberland, Cumberland, Westmoreland, Durham, and York. It consisted of a large number of persons, including several ecclesiastics, but only five of its members, exclusive of the President and Vice-President, were bound to continual attendance. These regular attendants received a salary and other allowances. The special object of the court seems to have been the suppression of riots and other disturbances, as well as of liveries and main-

tenance and similar survivals of feudal times, which tended to violence and injustice. But its jurisdiction, as defined in the instructions printed below (p. 363), went far beyond this. It was to aid the bishops and the High Commissioners in the discovery and repression of recusants and in the maintenance of uniformity and good morals, to watch over the interests of agriculture, to protect the poor against the rich, to supervise the proceedings of justices of the peace, to provide for the defence of the border, and generally to maintain the laws. It was empowered to inflict almost any penalty short of death. In cases of special difficulty or importance the President and Council were to apply to the justices of the higher courts or to the Privy Council, and to act according to their advice. Apart from this last provision, they were practically independent, and no appeal seems to have been allowed from their decisions. In addition to the multifarious duties laid upon the members of the Council by these instructions, they received a commission containing powers to determine real and personal actions in cases in which either party was too poor to resort to the usual course of law. They are also found holding ordinary sessions, Oyer and Terminer, and gaol delivery, hearing indictments for murder and felony, and executing felons. In this respect their powers exceeded even those of the Star-Chamber.

The instructions issued to the Council of Wales (p. 378) are very similar. This body contained nearly twice as many members as the northern court, but the number of regular paid councillors is the same. Special powers were granted to determine real and personal actions, subject to certain limitations, and to reinstate persons violently ousted from their lands. The jurisdiction of the court covered not only the whole of Wales, but also the five border-counties of Gloucester, Worcester, Hereford, Monmouth, and Shropshire. Its control over four of these counties was objected to by Parliament in 1610 (p. 307), and was attacked by Coke (Inst. IV. 242), but was apparently maintained until 1641,

when both this court and that of the North, together with the courts of the Duchy of Lancaster and the County of Chester, were abolished by Act of Parliament (17 Car. I. 10. § 7).

One of the most remarkable of the local courts, established like those of Wales and the North, for political objects as well as for the maintenance of justice, was the Court of Castle Chamber in Ireland (p. 150). It was framed expressly on the model of the Star-Chamber in this country, aimed at similar objects, and proceeded by similar methods. Like the Star-Chamber, it was to sit regularly twice a week during term, to punish riots, bribery, and intimidation of jurors, misdemeanours of sheriffs, and various other crimes, and it could inflict any penalty short of death.

The Court of Admiralty was of greater antiquity than the courts described above, and has survived to the present day. In its origin it resembled the courts of the Marshal and the Steward, but it differed from them in that its procedure was governed by the rules of civil law. Its powers (p. 388) extended over all subjects of the crown at sea or on board ship, in ports at home or abroad, over the coasts up to high water mark, and over rivers and estuaries so far as the lowest bridge by which they were spanned. Its jurisdiction was both civil and criminal. It dealt with all crimes and misdemeanours committed at sea or elsewhere within its province, and it could inflict capital punishment or any smaller penalty. It also heard and determined disputes between master-mariners and sailors, or between shipowners and merchants, cases arising out of contracts made or to be performed over seas, and similar matters. From its civil decisions there lay an appeal by application to the Court of Chancery, to a special Court of Delegates, appointed by the crown as occasion arose. This system of appeals, which formed a model for the Court of Delegates in ecclesiastical matters established by Henry VIII (above, p. xxxviii), was confirmed by Act of Parliament in 1565 (8 Eliz. 5).

The jurisdiction of the justices of the peace dates from

about the middle of the fourteenth century. The knights and country gentlemen, who before that time had acted as a sort of high constables for the maintenance of public order, then received authority to act as judges in the less important cases that came before them. Their duties were largely increased by the administrative functions laid upon them in the latter part of the same century, especially in connexion with the Statutes of Labourers. Under these three heads, police, justice, and administration, their later activities may be grouped. The commissions of the peace, printed below (pp. 144, 147), indicate by the order of the paragraphs the historical development of their judicial powers. Their duties grew so rapidly that the older form of the commission was out of date long before 1590, when another form was adopted. The principal alterations consist in the substitution of a general clause for the enumeration of particular statutes in § 1, in the omission of § 3 of the older commission, and in the extension of the provision for the reservation of certain cases (§ 5 before, § 4 after 1590) for the justices of assize. It is somewhat remarkable that even the later form omits all mention of their administrative duties. The oath taken by the justices is printed below (p. 149).

In the Tudor times and subsequently, the justices of the peace formed an indispensable element in the judicial and administrative system of the country. Their functions under these two aspects cannot practically be separated: the administrative duties constantly involved the judicial. In the justices, as Sir Thomas Smith rightly says (p. 179), the prince put his special trust: without them, the government of the Tudors and the Stewarts could not have been carried on for a single day. Their records, during the period, are scanty, and little light has as yet been thrown upon the exact nature of their proceedings, but it is easy to see, if only by the 'stacks of statutes' which, as Lambarde says, were laid upon their shoulders, how large a part they played in the Commonwealth. They were, and could be,

under little control, and they discharged their onerous duties, for the most part, without pecuniary reward—for the only allowance that they received was for their services under the Statute of Apprentices (p. 53). They got—what no doubt they wanted more than money—power, and they acquired what was still more important for the constitutional development of the country, an excellent political training. This interdependence of rights and duties is indicative of what was best in the political system of the sixteenth century. Nothing could so well have prepared the country gentry and the burgesses of the great towns for the share they were to take in the Parliaments of the coming age.

The justices held office under commissions from the crown, issued from the Chancery to the leading gentry of every county, and to the local officials for the time being, of the cities, boroughs, and corporate towns. In many statutes the mayor, aldermen, or bailiffs of such towns are empowered to act as justices. Among them were named certain legal members, the 'quorum,' whose presence on the more important occasions was indispensable. Although any single justice had the power of committal, no judicial decision could be taken by less than two. The less weighty matters were handled in their frequent petty sessions, the more important in their greater or quarter sessions held four times a year. As commissioners of Oyer and Terminer, many of them sat with the justices of assize. Their primary duty was to keep the peace, to suppress sedition, riots, and minor disturbances, and to enforce the observation of the Statute of Liveries and other Acts of Parliament. The great development of statute-law in the sixteenth century, touching, as it did, most departments of local government, placed many fresh duties in their hands. They carried out the various enactments concerning labour and industry, especially the Statute of Apprentices passed in 1563 (5 Eliz. 4). Under these acts they fixed the rate of wages, bound over apprentices, and settled disputes between

master and man. Acting under other statutes they protected the interests of agriculture, prevented the conversion of arable land into pasture, and called in compulsory labour when required. The execution of the Poor Law, developed by many Elizabethan statutes, especially the great Acts of 1598 and 1601 (39 & 40 Eliz. 3; 43 & 44 Eliz. 2), depended almost entirely upon them. They appointed overseers of the poor, erected and superintended poor-houses, fixed the poor-rate and enforced its collection, rated the parishes for relief to poor prisoners, transmitted paupers to their homes, and licensed begging at discretion. Closely connected with the poor-law on one side, and with the labour-statutes on the other, was the legislation touching rogues and vagabonds. Previous statutes on this subject were summarised and amended by the Act of 1598 (39 & 40 Eliz. 4) and further amended in the following reign (1 Jas. I. 7; 7 & 8 Jas. I. 4). Under these Acts, the justices set up houses of correction, enforced labour, instituted house-to-house visitations, executed the sanguinary penalties of the law, and even transported offenders out of the country. Another section of their duties was connected with the penal laws against Romanists and Dissenters. They discovered and reported recusants, tried offences against the Act of Uniformity and similar Acts, administered the oath of allegiance, broke up conventicles, and searched the houses of recusants for arms and superstitious relics. There was little indeed, whether in town or country, that escaped the surveillance of the justices of the peace: they nipped treason in the bud, and a country parson had to obtain their licence before he could marry (p. 187 and index).

It is clear that a judicial system, so complex and incongruous as that of the Tudors, must have suffered from great defects. There were, no doubt, many failures of justice and frequent conflicts of jurisdiction. But on the whole it seems clear that ordinary justice was better done between man and man, that crime was more rapidly and surely punished, and general order more strictly maintained than

in any previous age. The darker side of the picture is shown when we regard the violations of private liberty and the distortions or evasions of the law which were permitted to persons in high places, and still more when we examine the manner in which political trials were conducted and penalties inflicted without trial on political offenders. Of the former class of abuses we have, perhaps naturally, but little detailed information. But, not to mention Star-Chamber prosecutions and committals by order of the Privy Council, out of the ordinary course of law, we have evidence to show that single officials and noblemen in favour were in the habit of grossly abusing their position for private ends. The evil must have been very flagrant to provoke such a remonstrance as that of the judges in 1591[1]. In such cases as those alluded to, writs of Habeas Corpus became a mockery, and humble claimants were deprived of their rights without the possibility of a fair trial. It should be observed, however, and remembered in connexion with Darnel's case, that the judges raised no objection against committals 'per speciale mandatum regis,' or by the Council as a body.

The tyrannical expansion and the rapid oscillations of the law of treason were due to the peculiar and varying circumstances of the age. The law on this subject is to be observed under two aspects—the legal conception of the crime and the method of procedure. Under Henry VIII the changes in the law are mostly traceable to two sources, the desire to establish the ecclesiastical supremacy, and the uncertainty of the succession. The new treasons created in that reign were afterwards abolished, then partially revived, and again repealed, before Elizabeth came to the throne. In her reign, as the succession was never settled, that cause for the invention of treasons fell away. But it was necessary to maintain the royal power, and especially the ecclesiastical

[1] Printed by Hallam (*Const. Hist.*, i. 234), from Lansd. MSS. lxviii. (not lviii.) 87. The words in the last section but one, which he omits, are 'any of.' In § 2 (last word), for 'accusation' read 'execution.'

supremacy, against all opponents. Hence the frequent enlargements of the definition of treason, mostly aimed against the supporters of the Pope, with which the penal statutes both of Elizabeth and James abound. But the definition was extended in other directions as well, notably by the Acts of 1571, 1572, and 1581 (13 Eliz. 1; 14 Eliz. 1; 23 Eliz. 2), so as to comprehend various actions not hitherto held to be treasonable. In spite of these changes, the law during this period never attained anything like the extravagant extension or the inquisitorial character which made it so monstrous an engine of intimidation under Henry VIII. In the reign of James I it underwent but little change.

Setting aside the acts of attainder, which were non-judicial, and impeachments, of which there were none for treason during this period, trials for treason were held, in the case of commoners, before an ordinary court, with a jury; in the case of peers, before a special court formed of members of their own body. Some twenty to twenty-five peers were generally selected for this purpose. They were presided over by the Lord High Steward, whose office, otherwise extinct, was revived for such occasions. During the period under review the procedure was, or should have been, governed by the Statute of 1552, which provided that the prisoner should be confronted by two witnesses, to prove the criminal act. But this Statute was ignored or evaded on more than one occasion; torture was constantly employed, both on witnesses and accused, to extort evidence; and, even if the proofs were insufficient, juries specially empanelled or liable to punishment were very unlikely not to convict. The case of the Duke of Norfolk in 1572 (p. 138) is a striking example of the unfairness with which, in spite of the supposed safeguard of a court of peers, the trials of the greatest nobles were conducted. The duke was repeatedly examined in private; he was kept in prison for more than four months, without any communication with his friends; he knew nothing of the charges against him till the indictment was read; he was refused the assis-

tance of counsel; the witnesses against him were not produced in court; and the whole trial lasted only one day. His condemnation was just, but he might as well have been condemned unheard. The trials of Essex and Arundel were similarly conducted, and if the verdict in the former case was justifiable, in the latter it was almost certainly unjust. The trial of Mary, Queen of Scots (p. 140), was, like that of Queen Anne fifty years before, conducted by a special commission. Here again, as in the case of Norfolk, the result was inevitable, but it was attained with a similar disregard of legal formalities. Trials for treason were less frequent under James I than under his predecessor, but the fate of Arabella Stuart, Raleigh, and Northumberland, not to mention the humbler Peacham, prove that the chances in favour of political prisoners were no better than before.

In a state of things like that which prevailed in the sixteenth century it was only natural that proclamations of martial law, by which ordinary legal process was for a time suspended, should be not unfrequent. The theory of the time—if we can apply such a phrase to vague opinions, shaped by no statutory enactments—appears to have been that martial law could be proclaimed in time of war and insurrection, presumably over those districts only which were threatened or involved, but not at other times. The military and naval forces of the country, when actually in the field or on board ship (pp. 155, 397), were of course permanently subject to this rule. The case of Burchett (p. 176) illustrates this view. But though Elizabeth was dissuaded from using her power on this occasion, at other times she did not so refrain. A proclamation issued in 1588[1] may possibly have been in Sir Thomas Smith's mind when he wrote the remarks printed below (p. 179). It can hardly be doubted that the proclamation of 1595[2] (p. 443) was quite unwarrantable. Commissions such as that of

[1] Hallam, *Const. Hist.*, i. 241.
[2] Cf. Hallam, *ibid.*

1624 (p. 398), which embraced not only soldiers but other persons, were little better. On the other hand, objections can hardly be raised against the permission to Lords-Lieutenant (p. 155) to use martial law in time of invasion except in so far as the vagueness of the wording left the permission open to abuse. Such commissions were also given to captains of merchant-ships sailing to distant countries, but may have been justified on the ground that their vessels were hardly to be distinguished from men-of-war. Ireland being in an almost constant state of insurrection, commissions to execute martial law were frequent there, and give some colour to Stafford's contention that in that country martial law was the rule.

VI.

Army and Navy.

The ancient obligation upon every freeman to be prepared to go to war in defence of his country still held good in the sixteenth century. Developed and graduated by the Assize of Arms and the Statute of Winchester, the national forces were mobilised from the time of Edward I onwards under Commissions of Array. These commissions in their later form (p. 156) were issued by authority of the crown to leading persons in the counties and large towns, and to others possessing military experience, empowering them to make lists of the able-bodied men within their districts, to fix the arms, horses, and equipments to be provided by each person according to his ability, and to drill and exercise the forces so raised, in order that they might be ready to act when and where required. The lists were to be sent in to the Privy Council, by whose further orders and instructions the commissioners were to abide. The purpose of these commissions was to organize, but not actually to bring into the field, the national militia. When required for active service, the forces were called out by means of

special orders (p. 158), sent to the Lords-Lieutenant in the different counties, bidding them to muster such numbers of men as were wanted, and to appoint captains over them, under whom the men were to be ready to march at an hour's notice to the point of rendezvous. Such men received money for their uniforms and travelling expenses (coat and conduct money) in addition to their pay.

The institution of Lords-Lieutenant was a modern one in the time of Elizabeth. These officials were first appointed, or at all events first legalized, under Edward VI (3 & 4 Ed. VI. 5). A similar Act was passed in the next reign (1 Mary (2) 12), and continued by Elizabeth (1 Eliz. 16), but lapsed upon her death. It may be gathered from the statutes that the original object for which the Lieutenants were appointed was rather to suppress rebellion than to repel invasion, but their powers (p. 154) were equally valid in both emergencies. Their military authority over the districts—one or more counties—committed to their charge was supreme. They were authorized to muster, arm, and exercise all persons liable to military service within their provinces, to lead them against all enemies, domestic or foreign, and in the execution of their office to use all the severity of martial law. They were to act on their own responsibility as soon as the occasion arose, without waiting for orders from the central authority. They were assisted by Deputy-Lieutenants nominated by the crown, and were empowered to appoint muster-masters and other officers. Finally they were indemnified in advance for any actions done by authority of their commission.

The obligation either to serve in person or to provide otherwise for military defence lay upon all members of the community. The proportion of arms, horses, and equipments to be provided by persons of property, whether in land or goods, was fixed by Statute (4 & 5 P. & M. 2), and the clergy were rated on the same footing as the laity, either for men or money. The bishops rated the inferior clergy as well as themselves and sent in their reports to

the Privy Council (pp. 161–163). The Commissioners of Array taxed the mass of the lay community. Peers and Privy Councillors were exempted from their inspection (p. 157), and it is possible that, in accordance with ancient principles, the wealthier of them made special arrangements with the crown. The Archbishop of Canterbury, however, is found rating himself exactly in accordance with the Act (p. 163). The Privy Council levied what contributions were required; but, just as the full number of armed men which could be supplied by a county was seldom if ever called out, so the full contribution does not seem to have been usually demanded. During the whole of this period, the Privy Council retained the immediate control of military affairs, but an important step was taken in the appointment, towards the end of James' reign, of a Council of War (p. 396). This council, it is true, was empowered only to consult together, to obtain information, and to give advice; but inasmuch as it comprised at least three members of the Privy Council, it came near being a committee of that body, and as it was composed more or less of experts, it must have exercised some influence on the Council's action. It cannot, however, be said, when we consider the results of the war, to have turned out a successful experiment.

The navy was manned and equipped on principles similar to those which governed the maintenance of the army: that is to say the obligation to defend the country by sea as well as by land, was incumbent on the subject. But inasmuch as naval warfare requires special training and experience, the obligation to provide for the navy and to serve in person at sea was practically restricted to the coasts and sea-port towns. Special duties in this respect were laid upon the Cinque Ports, under control of the Lord Warden, who was to all intents and purposes their Lord-Lieutenant. The naval forces differed, however, in one essential respect from the military. No standing army existed, but there was, and long had been, a royal navy, built and equipped out of the royal revenues, and manned, if necessary, by compulsory service.

When occasion required, as for instance at the time of the Spanish Armada, this navy was reinforced by numerous merchant-vessels, a method rendered easy and effective by the fact that as yet there was but little difference between such ships and ships of war. The obligation to supply ships did not rest on the Cinque Ports only, but also on all other towns possessing merchant-shipping, not excluding London. In 1596, for instance, we find London required to provide twelve ships and two pinnaces 'for Her Majesty's necessary service.' This should be remembered in connexion with the famous ship-money case in 1637.

The Lord High Admiral, generally speaking, did not himself command the fleet, for which an Admiral and Vice-Admiral were specially appointed (pp. 163, 397). These officers, like the Lord High Admiral (p. 390), were empowered to requisition ships and to impress men as occasion required, and to keep discipline by means of martial law. They had also (p. 164) a general civil and criminal jurisdiction over the forces under their command.

VII.

The Prerogative.

The whole of the foregoing sketch may be regarded, from one point of view, as a commentary on the prerogative, but a short note may be added in order to show the different significations attached to the word, and the development of the ideas which it involved, during this period. Under Elizabeth prerogative was generally understood to mean the aggregate of official rights and powers possessed by any person in authority. Thus the order of the Ecclesiastical Courts is said to have been settled by the Pope's prerogative (p. 199). The Archbishop of Canterbury has his Prerogative Court, in which his special privileges and jurisdiction are maintained. The prerogative of the crown consists in the peculiar rights, immunities, and powers enjoyed by the

sovereign alone, including the precedence of all persons in the realm. These privileges rest partly on statute, partly on custom and precedent. But they are not vague and indefinite: they are known and are capable of description. They do not amount to an emancipation from law: on the contrary, they are limited by it. This is the view of Bracton; it is implied by Staunford and Smith, who set themselves to analyze and enumerate the powers of the monarchy (pp. 174, 179); and it is clearly stated by Selden (p. 412) as well as by Coke (Reports, part xii. p. 299; ed. 1826). Elizabeth herself uses the word in this sense (pp. 115, 116); and even James I, though he also gives it a far wider meaning, occasionally applies it in a similar manner (pp. 312, 315). Such powers as the right of the crown to veto parliamentary bills, to appoint and dismiss ministers, to order out the army, to pardon prisoners, are clearly portions of the royal prerogative.

But these recognized and definite powers do not exhaust the rights of the crown, because circumstances may occur which are provided for neither by law nor custom. Occasions will arise in which the sovereign power must exert itself, without previous example or authorization. It is conceivable that on such occasions the sovereign may be forced, in order to save the State, to over-ride the law; at all events he may often be called upon to act without it. Thus, beyond the definite prerogative and outside the area occupied by the law, there is, and must be, a vague and undefined power to act for the good of the State. It is this indefinite power to act 'out of the ordinary course of common law,' which Blackstone regards (p. 410, note) as the essence of the royal prerogative. On this lawless province, law and custom gradually encroach, either in the interest of the sovereign or of the subject, but within its area, if the sovereign and the subject come into collision, the subject must give way. The less advanced the State, or, in other words, the less complete the control of law and custom, the larger will be the area over which the sovereign is free to act. It

was still very large in the days of the Tudors and the Stewarts, and as the initiative in the creation of law and custom was then almost exclusively in the hands of the monarch, it might well have seemed to contemporaries (p. 289) that the 'Prerogatives of Princes' were daily growing, that is, that law and custom were constantly restricting the indefinite area in the interest of the crown, and converting uncertainties into definite prerogative.

It was the existence of this indefinite power, and the inevitable attachment of it to the crown, which gave some colour to the claims of the Stewarts and their supporters in the seventeenth century. But the immediate origin of their theories was the necessity, not hitherto felt, of forming clear notions of sovereignty and of defining its abode. The writers of Elizabeth's time, for instance Sir Thomas Smith (p. 178), declared sovereignty to reside in Parliament, that is, in the crown and the estates, combined in one harmonious whole. But they did not anticipate the case of a divergence between the elements of which Parliament was composed, such a divergence as occurred in the following reigns. If the sovereign Parliament disagreed with itself, where did the right of arbitration lie? Was it in the crown, or was it in the estates? It is not wonderful that, in this dilemma, many men decided for the crown. It may well have seemed impossible to leave supreme control in the hands of a heterogeneous collection of atoms, totally unused to guide the difficult machine of State. But those who concluded that the casting vote in such cases lay with the crown were perforce driven further. It seemed impossible to limit the sovereignty thus acquired. It had once been agreed that the sovereign Parliament could make and unmake laws, levy taxes and reform religion. If the joint Parliament were dethroned, and the monarch stood alone in its place, were not these powers transferred to him? Somewhere or other they must reside, and if not in the joint Parliament—still less in the House of Commons—where could they reside but in the crown? The alternative—that they

resided in the House of Commons—could not then have been adopted in the same outspoken way. The Parliamentary party were eventually forced to claim the sovereignty in practice, but they did not, until the end of the Civil War, claim it in words.

Thus was produced the full-blown idea of the absolute monarchy, unrestricted by law, limited only by its own conceptions of the 'salus populi,' that is, not limited at all. It is the theory maintained, if somewhat dimly and inconsistently, by James himself (pp. 294, 400), and by the judges in Bates' case (p. 341 : cf. above, p. lxxv) : it is pushed to its full logical consequences by Cowell (pp. 409–411) ; and it was openly preached by the absolutist divines of the following reign (pp. 437–439). Cowell describes the prerogative as 'that especial power, pre-eminence or privilege that the King hath *above* the ordinary course of the common law,' and this was the watchword of the royalists. It required only an alteration of one word to enable Blackstone to adopt Cowell's definition, but in substituting the phrase '*out of* the ordinary course of the common law' for that which Cowell uses (p. 410, note), he substituted a constitutional doctrine for one destructive of the constitution. The whole quarrel between the Stewarts and their Parliaments lies there.

STATUTES AND DOCUMENTS

OF

ELIZABETH AND JAMES I

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CONSTITUTIONAL DOCUMENTS

REIGN OF ELIZABETH.

I.—STATUTES.

FIRST PARLIAMENT.

Jan. 23—May 8, 1559.

1 ELIZ. CAP. I.

An Act restoring to the Crown the ancient jurisdiction over the State ecclesiastical and spiritual, and abolishing all foreign power repugnant to the same.

Most humbly beseech your most excellent Majesty your faithful and obedient subjects, the Lords spiritual and temporal and the Commons in this your present Parliament assembled, That where in time of the reign of your most dear father of worthy memory, King Henry the Eighth, divers good laws and statutes were made and established, as well for the utter extinguishment and putting away of all usurped and foreign powers and authorities out of this your realm and other your Highness' dominions and countries, as also for the restoring and uniting to the imperial crown of this realm the ancient jurisdictions, authorities, superiorities and pre-eminences to the same of right belonging and appertaining; by reason whereof we your most humble and obedient subjects, from the twenty-fifth year of the reign of your said dear father, were continually kept in good order, and were disburdened of divers great and intolerable charges and exactions before that time unlawfully taken and

exacted by such foreign power and authority as before that was usurped, until such time as all the said good laws and statutes by one Act of Parliament [1] made in the first and second years of the reigns of the late King Philip and Queen Mary, your Highness' sister, intituled an Act repealing all statutes, articles and provisions made against the See Apostolic of Rome since the twentieth year of King Henry the Eighth, and also for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity, were all clearly repealed and made void, as by the same Act of Repeal more at large doth and may appear; by reason of which Act of Repeal your said humble subjects were eftsoons brought under an usurped foreign power and authority, and yet do remain in that bondage, to the intolerable charges of your loving subjects, if some redress by the authority of this your High Court of Parliament, with the assent of your Highness, be not had and provided: May it therefore ~~please~~ your Highness, for the repressing of the said usurped foreign power and the restoring of the rights, jurisdiction and pre-eminences appertaining to the imperial crown of this your realm, that it may be enacted by the authority of this present Parliament; That the said Act made in the said first and second years of the reigns of the said late King Philip and Queen Mary and all and every branch, clauses and articles therein contained (other than such branches, clauses and sentences as hereafter shall be excepted) may from the last day of this session of Parliament, by authority of this present Parliament, be repealed, and shall from thenceforth be utterly void and of none effect.

II. And that also for the reviving of divers of the said good Laws and Statutes made in the time of your said dear father, it may also please your Highness, That one Act and Statute [2] made in the twenty-third year of the reign of the said late King Henry the Eighth, intituled an Act that no person shall be cited out of the diocese where he or she dwelleth, except in certain cases; and one other Act [3] made in the twenty-fourth year of the reign of the said late King, intituled an Act that appeals in such cases as hath been used to be pursued to the See of Rome shall not be from henceforth had nor used

[1] 1 & 2 P. & M. 8. [2] 23 H. VIII. 9. [3] 24 H. VIII. 12.

but within this realm; and one other Act[1] made in the twenty-fifth year of the said late King, concerning restraint of payment of annates and first fruits of archbishoprics and bishoprics to the See of Rome; and one other Act[2] in the said twenty-fifth year, intituled an Act concerning the submission of the clergy to the King's Majesty; and also one Act[3] made in the said twenty-fifth year, intituled an Act restraining the payment of annates or first fruits to the Bishop of Rome, and of the electing and consecrating of archbishops and bishops within this realm; and one other Act[4] made in the said twenty-fifth year, intituled an Act concerning the exoneration of the King's subjects from exactions and impositions heretofore paid to the See of Rome, and for having licences and dispensations within this realm without suing further for the same; and one other Act[5] made in the twenty-sixth year of the said late King, intituled an Act for nomination and consecration of suffragans within this realm; and also one other Act[6] made in the twenty-eighth year of the reign of the said late King, intituled an Act for the release of such as have obtained pretended licences and dispensations from the See of Rome; and all and every branches, words and sentences in the said several Acts and Statutes contained, by authority of this present Parliament, from and at all times after the last day of this session of Parliament, shall be revived and shall stand and be in full force and strength to all intents, constructions and purposes; and that the branches, sentences and words of the said several Acts and every of them from thenceforth shall and may be judged, deemed and taken to extend to your Highness, your heirs and successors, as fully and largely as ever the same Acts or any of them did extend to the said late King Henry the Eighth your Highness' father.

III. And that it may also please your Highness that it may be enacted by the authority of this present Parliament, That so much of one Act or Statute[7] made in the thirty-second year of the reign of your said dear father King Henry the Eighth, intituled an Act concerning pre-contracts of marriages and touching degrees of consanguinity, as in the time of the late

[1] 23 H. VIII. 20 (this Act received the royal assent a. r. 25). [2] 25 H. VIII. 19. [3] 25 H. VIII. 20. [4] 25 H. VIII. 21. [5] 26 H. VIII. 14. [6] 28 H. VIII. 16. [7] 32 H. VIII. 38.

King Edward the Sixth, your Highness' most dear brother, by one other Act or Statute[1] was not repealed; and also one Act[2] made in the thirty-seventh year of the reign of the said late King Henry the Eighth, intituled an Act that Doctors of the Civil Law, being married, may exercise ecclesiastical jurisdiction, and all and every branches and articles in the said two Acts last mentioned and not repealed in the time of the said late King Edward the Sixth, may from henceforth likewise stand and be revived and remain in their full force and strength to all intents and purposes; anything contained in the said Act of Repeal before mentioned or any other matter or cause to the contrary notwithstanding.

IV. And that it may also please your Highness that it may be further enacted by the authority aforesaid, That all other Laws and Statutes and the branches and clauses of any Act or Statute, repealed and made void by the said Act of Repeal made in the time of the said late King Philip and Queen Mary, and not in this present Act especially mentioned and revived, shall stand, remain and be repealed and void, in such like manner and form as they were before the making of this Act; anything herein contained to the contrary notwithstanding.

V. And that it may also please your Highness that it may be enacted by the authority aforesaid, That one Act and Statute[3] made in the first year of the reign of the late King Edward the Sixth, your Majesty's most dear brother, intituled an Act against such persons as shall unreverently speak against the Sacrament of the Body and Blood of Christ, commonly called the Sacrament of the Altar, and for the receiving thereof under both kinds, and all and every branches, clauses and sentences therein contained, shall and may likewise from the last day of this session of Parliament be revived and from thenceforth shall and may stand, remain and be in full force, strength and effect to all intents, constructions and purposes, in such like manner and form as the same was at any time in the first year of the reign of the said late King Edward the Sixth; any law, statute or other matter to the contrary in any wise notwithstanding.

VI. And that also it may please your Highness that it may be further established and enacted by the authority aforesaid,

[1] 2 & 3 E. VI. 23. [2] 37 H. VIII. 17. [3] 1 E. VI. 1.

That one Act and Statute [1] made in the first and second years of the said late King Philip and Queen Mary intituled an Act for the reviving of three Statutes [2] made for the punishment of heresies, and also the said three Statutes mentioned in the said Act and by the same Act revived, and all and every branches, articles, clauses and sentences contained in the said several Acts or Statutes and every of them, shall be from the last day of this session of Parliament deemed and remain utterly repealed, void and of none effect to all intents and purposes; anything in the said several Acts or any of them contained or any other matter or cause to the contrary notwithstanding.

VII. And to the intent that all usurped and foreign power and authority, spiritual and temporal, may for ever be clearly extinguished, and never to be used nor obeyed within this realm or any other your Majesty's dominions or countries; may it please your Highness that it may be further enacted by the authority aforesaid, That no foreign prince, person, prelate, state or potentate, spiritual or temporal, shall at any time after the last day of this session of Parliament, use, enjoy or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence or privilege, spiritual or ecclesiastical, within this realm or within any other your Majesty's dominions or countries that now be or hereafter shall be, but from thence-forth the same shall be clearly abolished out of this realm and all other your Highness' dominions for ever; any statute, ordinance, custom, constitutions or any other matter or cause whatsoever to the contrary in any wise notwithstanding.

VIII. And that also it may likewise please your Highness that it may be established and enacted by the authority aforesaid, That such jurisdictions, privileges, superiorities and pre-eminences, spiritual and ecclesiastical, as by any spiritual or ecclesiastical power or authority hath heretofore been or may lawfully be exercised or used for the visitation of the ecclesiastical state and persons, and for reformation, order and correction of the same and of all manner of errors, heresies, schisms, abuses, offences, contempts and enormities, shall for ever, by authority of this present Parliament, be united and annexed to the imperial crown of this realm; and that

[1] 1 & 2 P. & M. 6. [2] 5 R. II. (2). 5: 2 H. IV. 15: 2 H. V. (1). 7.

your Highness, your heirs and successors, kings or queens of this realm, shall have full power and authority by virtue of this Act, by Letters Patents under the Great Seal of England, to assign, name and authorize, when and as often as your Highness, your heirs or successors, shall think meet and convenient, and for such and so long time as shall please your Highness, your heirs or successors, such person or persons, being natural-born subjects to your Highness, your heirs or successors, as your Majesty, your heirs or successors, shall think meet, to exercise, use, occupy and execute under your Highness, your heirs and successors, all manner of jurisdictions, privileges and pre-eminences, in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within these your realms of England and Ireland or any other your Highness' dominions or countries; and to visit, reform, redress, order, correct and amend all such heresies, errors, schisms, abuses, offences, contempts and enormities whatsoever, which by any manner of spiritual or ecclesiastical power, authority or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended, to the pleasure of Almighty God, the increase of virtue and the conservation of the peace and unity of this realm; and that such person or persons so to be named, assigned, authorised and appointed by your Highness, your heirs or successors, after the said Letters Patents to him or them made and delivered as is aforesaid, shall have full power and authority by virtue of this Act and of the said Letters Patents, under your Highness, your heirs or successors, to exercise, use and execute all the premisses according to the tenor and effect of the said Letters Patents; any matter or cause to the contrary in any wise notwithstanding.

IX. And for the better observation and maintenance of this Act, may it please your Highness that it may be further enacted by the authority aforesaid, That all and every archbishop, bishop, and all and every other ecclesiastical person and other ecclesiastical officer and minister, of what estate, dignity, pre-eminence or degree soever he or they be or shall be, and all and every temporal judge, justicer, mayor and other lay or temporal officer and minister, and every other person having your Highness' fee or wages within this realm or any your Highness'

dominions, shall make, take and receive a corporal oath upon the Evangelist, before such person or persons as shall please your Highness, your heirs or successors, under the Great Seal of England, to assign and name, to accept and take the same according to the tenor and effect hereafter following, that is to say:

I, A. B., do utterly testify and declare in my conscience, That the Queen's Highness is the only supreme governor of this realm and of all other her Highness' dominions and countries, as well in all spiritual or ecclesiastical things or causes as temporal, and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm; and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the Queen's Highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre-eminences, privileges and authorities granted or belonging to the Queen's Highness, her heirs and successors, or united or annexed to the imperial crown of this realm: so help me God, and by the contents of this Book.

X. And that it may be also enacted, That if any such archbishop, bishop or other ecclesiastical officer or minister or any of the said temporal judges, justiciaries or other lay officer or minister shall peremptorily or obstinately refuse to take or receive the said oath, that then he so refusing shall forfeit and lose only during his life all and every ecclesiastical and spiritual promotion, benefice and office, and every temporal and lay promotion and office, which he hath solely at the time of such refusal made; and that the whole title, interest and incumbency in every such promotion, benefice and other office as against such person only so refusing during his life shall clearly cease and be void as though the party so refusing were dead; and that also all and every such person and persons so refusing to take the said oath shall immediately after such refusal be from thenceforth during his life disabled to retain or exercise any office or other promotion which he at the time of such refusal hath jointly or in common with any other person or persons; and that all and every person and persons that at

any time hereafter shall be preferred, promoted or collated to any archbishopric or bishopric or to any other spiritual or ecclesiastical benefice, promotion, dignity, office or ministry, or that shall be by your Highness, your heirs or successors, preferred or promoted to any temporal or lay office, ministry or service within this realm or in any your Highness' dominions, before he or they shall take upon him or them to receive, use, exercise, supply or occupy any such archbishopric, bishopric, promotion, dignity, office, ministry or service, shall likewise make, take and receive the said corporal oath before mentioned upon the Evangelist, before such persons as have or shall have authority to admit any such person to any such office, ministry or service, or else before such person or persons as by your Highness, your heirs or successors, by commission under the Great Seal of England, shall be named, assigned, or appointed to minister the said oath.

XI. And that it may likewise be further enacted by the authority aforesaid, That if any such person or persons as at any time hereafter shall be promoted, preferred or collated to any such promotion spiritual or ecclesiastical, benefice, office or ministry, or that by your Highness, your heirs or successors, shall be promoted or preferred to any temporal or lay office, ministry or service shall and do peremptorily and obstinately refuse to take the same oath so to him to be offered, that then he or they so refusing shall presently be judged disabled in the law to receive, take or have the same promotion spiritual or ecclesiastical, the same temporal office, ministry or service, within this realm or any other your Highness' dominions to all intents, constructions and purposes.

XII. And that it may be further enacted by the authority aforesaid, That all and every person and persons temporal, suing livery or oustre le maine out of the hands of your Highness, your heirs or successors, before his or their livery or oustre le maine sued forth and allowed, and every temporal person and persons doing any homage to your Highness, your heirs or successors, or that shall be received into service with your Highness, your heirs or successors, shall make, take and receive the said corporal oath before mentioned before the Lord Chancellor of England or the Lord Keeper of the Great Seal for the time being, or before such person or persons as by

your Highness, your heirs or successors, shall be named and appointed to accept or receive the same: and that also all and every person and persons taking orders, and all and every other person and persons which shall be promoted or preferred to any degree of learning in any University within this your realm or dominions, before he shall receive or take any such orders, or be preferred to any such degree of learning, shall make, take and receive the said oath by this Act set forth and declared, as is aforesaid, before his or their ordinary, commissary, chancellor or vice-chancellor, or their sufficient deputies in the said University.

XIII. Provided always and that it may be further enacted by the authority aforesaid, That if any person having any estate of inheritance in any temporal office or offices shall hereafter obstinately and peremptorily refuse to accept and take the said oath as is aforesaid, and after at any time during his life shall willingly require to take and receive the said oath, and so do take and accept the same oath before any person or persons that shall have lawful authority to minister the same, that then every such person immediately after he hath so received the same oath shall be vested, deemed and judged in like estate and possession of the said office as he was before the said refusal, and shall and may use and exercise the said office in such manner and form as he should or might have done before such refusal; any thing in this Act contained to the contrary in any wise notwithstanding.

XIV. And for the more sure observation of this Act, and the utter extinguishment of all foreign and usurped power and authority, may it please your Highness that it may be further enacted by the authority aforesaid, That if any person or persons dwelling or inhabiting within this your realm, or in any other your Highness' realms or dominions, of what estate, dignity or degree soever he or they be, after the end of thirty days next after the determination of this session of this present Parliament, shall by writing, printing, teaching, preaching, express words, deed or act, advisedly, maliciously and directly affirm, hold, stand with, set forth, maintain or defend the authority, pre-eminence, power or jurisdiction, spiritual or ecclesiastical, of any foreign prince, prelate, person, state or potentate whatsoever,

heretofore claimed, used or usurped within this realm or any dominion or country being within or under the power, dominion or obeisance of your Highness, or shall advisedly, maliciously and directly put in ure or execute any thing for the extolling, advancement, setting forth, maintenance or defence of any such pretended or usurped jurisdiction, power, pre-eminence or authority or any part thereof, that then every such person and persons so doing and offending, their abettors, aiders, procurers and counsellors, being thereof lawfully convicted and attainted according to the due order and course of the Common Laws of this realm, for his or their first offence shall forfeit and lose unto your Highness, your heirs and successors, all his and their goods and chattels, as well real as personal; and if any such person so convicted or attainted shall not have or be worth of his proper goods and chattels to the value of twenty pounds at the time of such his conviction or attainder, that then every such person so convicted and attainted over and besides the forfeiture of all his said goods and chattels shall have and suffer imprisonment by the space of one whole year without bail or mainprise; and that also all and every the benefices, prebends and other ecclesiastical promotions and dignities whatsoever of every spiritual person so offending and being attainted shall immediately after such attainder be utterly void to all intents and purposes as though the incumbent thereof were dead, and that the patron and donor of every such benefice, prebend, spiritual promotion and dignity shall and may lawfully present unto the same, or give the same in such manner and form as if the said incumbent were dead; and if any such offender or offenders after such conviction or attainder do eftsoons commit or do the said offences or any of them in manner and form aforesaid, and be thereof duly convicted and attainted as is aforesaid, that then every such offender and offenders shall for the same second offence incur into the dangers, penalties and forfeitures ordained and provided by the Statute[1] of Provision and Premunire, made in the sixteenth year of the reign of King Richard the Second; and if any such offender or offenders, at any time after the said second conviction and attainder, do the third time commit and do the said offences or

[1] 16 R. II. 5.

any of them in manner and form aforesaid, and be thereof duly convicted and attainted as is aforesaid, that then every such offence or offences shall be deemed and adjudged high treason, and that the offender and offenders therein, being thereof lawfully convicted and attainted according to the laws of this realm, shall suffer pains of death and other penalties, forfeitures and losses, as in cases of high treason by the laws of this realm.

XV. And also that it may likewise please your Highness that it may be enacted by the authority aforesaid, That no manner of person or persons shall be molested or impeached for any the offences aforesaid committed or perpetrated only by preaching, teaching or words, unless he or they be thereof lawfully indicted within the space of one half year next after his or their offences so committed; and in case any person or persons shall fortune to be imprisoned for any of the said offences committed by preaching, teaching or words only, and be not thereof indicted within the space of one half year next after his or their such offence so committed and done, that then the said person so imprisoned shall be set at liberty and be no longer detained in prison for any such cause or offence.

XVI. Provided always and be it enacted by the authority aforesaid, That this Act or any thing therein contained shall not in any wise extend to repeal any clause, matter or sentence contained or specified in the said Act of Repeal made in the said first and second years of the reigns of the said late King Philip and Queen Mary as doth in any wise touch or concern any matter or case of premunire, or that doth make or ordain any matter or cause to be within the case of premunire, but that the same for so much only as toucheth or concerneth any case or matter of premunire shall stand and remain in such force and effect as the same was before the making of this Act; any thing in this Act contained to the contrary in any wise notwithstanding.

XVII. Provided also and be it enacted by the authority aforesaid, That this Act or any thing therein contained shall not in any wise extend or be prejudicial to any person or persons for any offence or offences committed or done, or hereafter to be committed or done, contrary to the tenor and effect of any Act or Statute now revived by this Act, before the end of

thirty days next after the end of the session of this present Parliament; any thing in this Act contained or any other matter or cause to the contrary notwithstanding.

XVIII. And if it happen that any peer of this realm shall fortune to be indicted of and for any offence that is revived or made premunire or treason by this Act, that then he so being indicted shall have his trial by his peers, in such like manner and form as in other cases of treason hath been used.

XIX. Provided always and be it enacted as is aforesaid, That no manner of order, act or determination for any matter of religion or cause ecclesiastical, had or made by the authority of this present Parliament, shall be accepted, deemed, interpretate or adjudged at any time hereafter to be any error, heresy, schism or schismatical opinion; any order, decree, sentence, constitution or law, whatsoever the same be, to the contrary notwithstanding.

XX. Provided always, and be it enacted by the authority aforesaid, That such person or persons to whom your Highness, your heirs or successors, shall hereafter by Letters Patents under the Great Seal of England give authority to have or execute any jurisdiction, power or authority spiritual, or to visit, reform, order or correct any errors, heresies, schisms, abuses or enormities by virtue of this Act, shall not in any wise have authority or power to order, determine or adjudge any matter or cause to be heresy, but only such as heretofore have been determined, ordered or adjudged to be heresy by the authority of the Canonical Scriptures, or by the first four General Councils or any of them, or by any other General Council wherein the same was declared heresy by the express and plain words of the said Canonical Scriptures, or such as hereafter shall be ordered, judged or determined to be heresy by the High Court of Parliament of this realm, with the assent of the clergy in their Convocation; any thing in this Act contained to the contrary notwithstanding.

XXI. And be it further enacted by the authority aforesaid, That no person shall be hereafter indicted or arraigned for any the offences made, ordained, revived or adjudged by this Act, unless there be two sufficient witnesses or more to testify and declare the said offences whereof he shall be indicted or arraigned; and that the said witnesses or so many of them as

shall be living and within this realm at the time of the arraignment of such person so indicted shall be brought forth in person face to face before the party so arraigned, and there shall testify and declare what they can say against the party so arraigned, if he require the same.

XXII. Provided also, and be it enacted by the authority aforesaid, That if any person or persons shall hereafter happen to give any relief, aid or comfort or in any wise be aiding, helping or comforting to the person or persons of any that shall hereafter happen to be any offender in any matter or case of premunire or treason revived or made by this Act, that then such relief, aid or comfort given shall not be judged or taken to be any offence, unless there be two sufficient witnesses at the least that can and will openly testify and declare that the person or persons that so gave such relief, aid or comfort had notice and knowledge of such offence committed and done by the said offender at the time of such relief, aid or comfort so to him given or ministered; any thing in this Act contained or any other matter or cause to the contrary in any wise notwithstanding.

[*Two sections, XXIII and XXIV, concerning certain individuals, are here omitted.*]

1 Eliz. Cap. II.

An Act for the uniformity of Common Prayer and Divine Service in the Church, and the Administration of the Sacraments.

Where at the death of our late Sovereign Lord King Edward the Sixth, there remained one uniform order of common Service and Prayer and of the administration of Sacraments, rites and ceremonies in the Church of England, which was set forth in one book intituled the Book of Common Prayer and administration of Sacraments and other rites and ceremonies in the Church of England, authorized by Act[1] of Parliament holden in the fifth and sixth years of our said late Sovereign Lord King Edward the Sixth, intituled an Act for the Uniformity of Common Prayer and administration of the Sacraments; the which was repealed and taken away by Act[2] of Parliament in

[1] 5 & 6 E. VI. 1. [2] 1 Mary (2). 2.

the first year of the reign of our late Sovereign Lady Queen Mary, to the great decay of the due honour of God and discomfort to the professors of the truth of Christ's religion: Be it therefore enacted by the authority of this present Parliament, That the said Statute of Repeal and everything therein contained, only concerning the said book and the service, administration of Sacraments, rites and ceremonies contained or appointed in or by the said book shall be void and of none effect from and after the Feast of the Nativity of St John Baptist next coming; and that the said book, with the Order of Service and of the administration of Sacraments, rites and ceremonies, with the alteration and additions therein added and appointed by this Statute, shall stand and be from and after the said Feast of the Nativity of St John Baptist, in full force and effect, according to the tenor and effect of this Statute; anything in the aforesaid Statute of Repeal to the contrary notwithstanding.

II. And further be it enacted by the Queen's Highness, with the assent of the Lords and Commons in this present Parliament assembled and by authority of the same, That all and singular ministers in any cathedral or parish church or other place within this realm of England, Wales and the marches of the same or other the Queen's dominions shall from and after the Feast of the Nativity of St John Baptist next coming be bounden to say and use the Matins, Evensong, celebration of the Lord's Supper, and administration of each of the Sacraments, and all their Common and open Prayer, in such order and form as is mentioned in the said book so authorized by Parliament in the said fifth and sixth years of the reign of King Edward the Sixth, with one alteration or addition of certain Lessons to be used on every Sunday in the year, and the form of the Litany altered and corrected, and two sentences only added in the delivery of the Sacrament to the communicants, and none other or otherwise; and that if any manner of parson, vicar or other whatsoever minister, that ought or should sing or say Common Prayer mentioned in the said book or minister the Sacraments from and after the Feast of the Nativity of St John Baptist next coming, refuse to use the said Common Prayers or to minister the Sacraments in such cathedral or parish church or other places as he should use to minister the

same, in such order and form as they be mentioned and set forth in the said book, or shall wilfully or obstinately (standing in the same) use any other rite, ceremony, order, form or manner of celebrating of the Lord's Supper, openly or privily, or Matins, Evensong, administration of the Sacraments or other open prayers than is mentioned and set forth in the said book, ([by] open prayer in and throughout this Act is meant that prayer which is for other to come unto or hear, either in common churches or private chapels or oratories, commonly called the Service of the Church,) or shall preach, declare or speak any thing in the derogation or depraving of the said book or any thing therein contained or of any part thereof, and shall be thereof lawfully convicted according to the laws of this realm by verdict of twelve men or by his own confession or by the notorious evidence of the fact, shall lose and forfeit to the Queen's Highness, her heirs and successors, for his first offence, the profit of all his spiritual benefices or promotions coming or arising in one whole year next after his conviction, and also that the person so convicted shall for the same offence suffer imprisonment by the space of six months without bail or mainprise; and if any such person once convict of any offence concerning the premises shall after the first conviction eftsoons offend and be thereof in form aforesaid lawfully convicted, that then the same person shall for his second offence suffer imprisonment by the space of one whole year and also shall therefore be deprived, ipso facto, of all his spiritual promotions, and that it shall be lawful to all patrons or donors of all and singular the same spiritual promotions or any of them to present or collate to the same as though the persons so offending were dead; and that if any such person or persons after he shall be twice convicted in form aforesaid shall offend against any of the premises the third time and shall be thereof in form aforesaid lawfully convicted, that then the person so offending and convicted the third time shall be deprived, ipso facto, of all his spiritual promotions and also shall suffer imprisonment during his life; and if the person that shall offend and be convicted in form aforesaid, concerning any of the premises, shall not be beneficed nor have any spiritual promotion, that then the same person so offending and convict shall for the first offence suffer

imprisonment during one whole year next after his said conviction without bail or mainprise; and if any such person not having any spiritual promotion, after his first conviction, shall eftsoons offend in any thing concerning the premises and shall be in form aforesaid thereof lawfully convicted, that then the same person shall for his second offence suffer imprisonment during his life.

III. And it is ordained and enacted by the authority above said, That if any person or persons whatsoever after the said Feast of the Nativity of St John Baptist next coming shall in any interludes, plays, songs, rhymes, or by other open words, declare or speak any thing in the derogation, depraving or despising of the same book or of any thing therein contained or any part thereof, or shall by open fact, deed, or by open threatenings compel or cause or otherwise procure or maintain any parson, vicar or other minister in any cathedral or parish church or in chapel or in any other place, to sing or say any common or open prayer, or to minister any Sacrament, otherwise or in any other manner and form than is mentioned in the said book, or that by any of the said means shall unlawfully interrupt or let any parson, vicar or other minister in any cathedral or parish church, chapel or any other place to sing or say common and open prayer or to minister the Sacraments or any of them in such manner and form as is mentioned in the said book, that then every such person being thereof lawfully convicted in form abovesaid shall forfeit to the Queen our Sovereign Lady, her heirs and successors, for the first offence a hundred marks; and if any person or persons being once convict of any such offence eftsoons offend against [sic] any of the last recited offences and shall in form aforesaid be thereof lawfully convict, that then the same person so offending and convict shall for the second offence forfeit to the Queen our Sovereign Lady, her heirs and successors, four hundred marks; and if any person, after he in form aforesaid shall have been twice convict of any offence concerning any of the last recited offences, shall offend the third time and be thereof in form abovesaid lawfully convict, that then every person so offending and convict shall for his third offence forfeit to our Sovereign Lady the Queen all his goods and chattels and shall suffer imprisonment during

his life; and if any person or persons that for his first offence concerning the premisses shall be convict in form aforesaid do not pay the sum to be paid by virtue of his conviction in such manner and form as the same ought to be paid within six weeks next after his conviction, that then every person so convict and so not paying the same shall for the same first offence instead of the said sum suffer imprisonment by the space of six months without bail or mainprise; and if any person or persons that for his second offence concerning the premisses shall be convict in form aforesaid do not pay the said sum to be paid by virtue of his conviction and this statute in such manner and form as the same ought to be paid within six weeks next after his said second conviction, that then every person so convicted and not so paying the same shall for the same second offence in the stead of the said sum suffer imprisonment during twelve months without bail or mainprise; and that from and after the said Feast of the Nativity of St John Baptist next coming all and every person and persons inhabiting within this realm or any other the Queen's Majesty's dominions shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their parish church or chapel accustomed, or upon reasonable let thereof to some usual place where Common Prayer and such service of God shall be used in such time of let, upon every Sunday, and other days ordained and used to be kept as Holy Days, and then and there to abide orderly and soberly, during the time of the Common Prayer, Preachings or other Service of God there to be used and ministered; upon pain of punishment by the censures of the Church, and also upon pain that every person so offending shall forfeit for every such offence twelve pence, to be levied by the Church-wardens of the parish where such offence shall be done, to the use of the poor of the same parish, of the goods, lands and tenements of such offender, by way of distress.

IV. And for due execution hereof the Queen's most Excellent Majesty, the Lords temporal and all the Commons in this present Parliament assembled doth in God's name earnestly require and charge all the archbishops, bishops and other ordinaries, that they shall endeavour themselves to the utter-

most of their knowledge that the due and true execution hereof may be had throughout their dioceses and charges, as they will answer before God for such evils and plagues wherewith Almighty God may justly punish his people for neglecting this good and wholesome law; and for their authority in this behalf, be it further enacted by the authority aforesaid, that all and singular the same archbishops, bishops and all other their officers exercising ecclesiastical jurisdiction, as well in places exempt as not exempt within their diocese, shall have full power and authority by this Act to reform, correct and punish by censures of the Church all and singular persons which shall offend within any their jurisdictions or dioceses, after the said Feast of the Nativity of St John Baptist next coming, against this Act and Statute; any other law, statute, privilege, liberty or provision heretofore made, had or suffered to the contrary notwithstanding.

V. And it is ordained and enacted by the authority aforesaid, That all and every Justices of Oyer and Determiner or Justices of Assize shall have full power and authority in every of their open and general sessions to enquire, hear and determine all and all manner of offences that shall be committed or done contrary to any article contained in this present Act within the limits of the commission to them directed and to make process for the execution of the same, as they may do against any person being indicted before them of trespass or lawfully convicted thereof.

VI. Provided always and be it enacted by the authority aforesaid, That all and every archbishop and bishop shall or may at all time and times at his liberty and pleasure join and associate himself by virtue of this Act to the said Justices of Oyer and Determiner or to the said Justices of Assize at every the said open and general sessions to be holden in any place within his diocese for and to the inquiry, hearing and determining of the offences aforesaid.

VII. Provided also and be it enacted by the authority aforesaid, That the books concerning the said services shall at the costs and charges of the parishioners of every parish and cathedral church be attained and gotten before the said Feast of the Nativity of St John Baptist next following; and that

all such parishes and cathedral churches or other places where the said books shall be attained and gotten before the said Feast of the Nativity of St John Baptist shall, within three weeks next after the said books so attained and gotten, use the said service and put the same in ure according to this Act.

VIII. And be it further enacted by the authority aforesaid, That no person or persons shall be at any time hereafter impeached or otherwise molested of or for any the offences above mentioned hereafter to be committed or done contrary to this Act, unless he or they so offending be thereof indicted at the next general sessions to be holden before any such Justices of Oyer and Determiner or Justices of Assize next after any offence committed or done contrary to the tenor of this Act.

IX. Provided always and be it ordained and enacted by the authority aforesaid, That all and singular Lords of the Parliament for the third offence above mentioned shall be tried by their peers.

X. Provided also and be it ordained and enacted by the authority aforesaid, That the Mayor of London and all other mayors, bailiffs and other head officers of all and singular cities, boroughs and towns corporate within this realm, Wales and the Marches of the same, to the which Justices of Assize do not commonly repair, shall have full power and authority by virtue of this act to enquire, hear and determine the offences abovesaid and every of them, yearly within fifteen days after the Feast of Easter and St Michael the Archangel, in like manner and form as Justices of Assize and Oyer and Determiner may do.

XI. Provided always and be it ordained and enacted by the authority aforesaid, That all and singular archbishops and bishops and every their chancellors, commissaries, archdeacons and other ordinaries having any peculiar ecclesiastical jurisdiction shall have full power and authority by virtue of this Act as well to enquire in their visitation synods and elsewhere within their jurisdiction, [as] at any other time and place, to take occasions and informations of all and every the things above mentioned done, committed or perpetrated within the limits of their jurisdictions and authority, and to punish the same by admonition, excommunication, sequestration or deprivation and

other censures and process in like form as heretofore hath been used in like cases by the Queen's ecclesiastical laws.

XII. Provided always and be it enacted, That whatsoever person offending in the premisses shall for the offence first receive punishment of the ordinary, having a testimonial thereof under the said ordinary's seal, shall not for the same offence eftsoones be convicted before the justices; and likewise receiving for the said offence first punishment by the justices, he shall not for the same offence eftsoones receive punishment of the ordinary; any thing contained in this Act to the contrary notwithstanding.

XIII. Provided always, and be it enacted, That such ornaments of the Church and of the ministers thereof shall be retained and be in use, as was in the Church of England, by authority of Parliament, in the second year of the reign of King Edward the Sixth, until other order shall be therein taken by the authority of the Queen's Majesty, with the advice of her commissioners appointed and authorized under the Great Seal of England for ecclesiastical causes, or of the Metropolitan of this realm: and also that, if there shall happen any contempt or irreverence to be used in the ceremonies or rites of the Church by the misusing of the orders appointed in this book, the Queen's Majesty may by the like advice of the said commissioners or Metropolitan ordain and publish such further ceremonies or rites as may be most for the advancement of God's glory, the edifying of his Church and the due reverence of Christ's holy mysteries and sacraments.

XIV. And be it further enacted by the authority aforesaid, That all laws, statutes, and ordinances, wherein or whereby any other Service, Administration of Sacraments or Common Prayer is limited, established or set forth to be used within this realm or any other the Queen's dominions or countries, shall from henceforth be utterly void and of none effect.

1 Eliz. Cap. III.

An Act of recognition of the Queen's Highness' title to the imperial crown of this realm.

As there is nothing under God, most dread Sovereign Lady, wherein we your most humble, faithful and obedient subjects, the Lords spiritual and temporal and Commons in this present Parliament assembled, have, may or ought to have more cause to rejoice than in this only, that it hath pleased God of his merciful providence and goodness towards us and this our realm not only to provide but also to preserve and keep for us and our wealths your royal Majesty our most rightful and lawful Sovereign Liege Lady and Queen, most happily to reign over us; for the which we do give and yield unto him from the bottoms of our hearts our humble thanks, lauds and praises; even so there is nothing that we your said subjects for our parties can, may or ought towards your Highness more firmly, entirely and assuredly in the purity of our hearts think or with our mouths declare and confess to be true, than that your Majesty our said Sovereign Lady is, and in very deed and of most meer right ought to be, by the laws of God and the laws and statutes of this realm, our most rightful and lawful Sovereign Liege Lady and Queen; and that your Highness is rightly, lineally and lawfully descended and come of the blood royal of this realm of England, in and to whose princely person, and the heirs of your body lawfully to be begotten, after you, without all doubt, . . . the imperial and royal estate, place, crown and dignity of this realm, with all honours . . . and pre-eminences to the same now belonging and appertaining, are and shall be most fully . . . invested and incorporated . . . as rightfully and lawfully . . . as the same were in the said late King Henry the Eighth or in the late King Edward the Sixth . . . or in the late Queen Mary . . . at any time since the act of parliament made in the thirty-fifth year of the reign of your said most noble father King Henry the Eighth, intituled an Act[1] concerning the establishment of the King's Majesty's succession in the imperial crown of this realm. . . .

[1] 35 H. VIII. 1.

II. And that it may be enacted, That as well this our declaration . . . as also the limitation and declaration of the succession . . . contained in the said Act . . . shall stand the law of this realm for ever. . . .

1 Eliz. Cap. IV.

An act for the restitution of the First Fruits and Tenths and rents reserved nomine decimæ *and of parsonages impropriate to the imperial crown of this realm.*

I. In their most humble wise beseech your most excellent Majesty your faithful and humble subjects . . . in this present Parliament assembled, That where in the parliament of your most noble father . . . holden . . . in the twenty-sixth year of his prosperous reign it was enacted [here follows a recital of Stat. 26 Hen. VIII. 3 and other Acts touching the annexation of first-fruits to the crown, &c.]; We your said humble and obedient subjects, the Lords spiritual and temporal and the Commons in this your present parliament assembled, calling to our remembrance the huge, innumerable and inestimable charges of the royal estate and imperial crown of this realm, and how the same is left unto your Majesty, at this your first entry thereunto, greatly diminished, as well by reason of the said Act[1], made in the said second and third year of the said King Philip and Queen Mary, as otherwise, do conceive at the bottom of our hearts great sorrow and heaviness, as subjects careful for their natural and Liege Sovereign Lady, upon whom dependeth the surety, worldly joy and wealth of us all, and . . . do account of very right . . . most humbly to beseech the same, that the great disherison and decay committed and done to the crown and estate royal of this your realm and the succession thereof, by reason of the said Act made in the said second and third years of the reign of the said King Philip and Queen Mary, may at this Parliament be reformed and avoided, and that with your Highness' favour and royal assent, it may be enacted . . . That the said Act made in the second and third years of the reign of the said late King Philip and Queen Mary, . . . shall be, from and after the first day of this present parliament,

[1] 2 & 3 P. & M. 4.

. . . repealed . . . and that the said first-fruits and all payments thereof, from and after the said first day of this parliament, shall be revived, . . . and be . . . united and annexed to the imperial crown of this realm. . . . and also that as well so much of the said perpetual and annual Tenth and Pension granted by the said Act made in the said twenty-sixth year of the reign of the said late King Henry the Eighth, as also so much of the said yearly rents reserved upon the said several Letters Patents *nomine decimæ*, and also so many of the said rectories . . . and other profits and emoluments ecclesiastical and spiritual aforesaid and the reversion and reversions thereof and all rents, emoluments and profits incident to the same, as were in the hands and possession of the said late Queen Mary at and before the said eighth day of August, shall from the Feast of St Michael the Archangel last past be . . . in the seisin and possession of our said Sovereign Lady Queen Elizabeth, her heirs and successors. . . .

V. All vicarages not exceeding the value of £10 . . . and also all parsonages not exceeding the value of ten marks . . shall be free . . . from the said first-fruits. . . .

VII. [Exemptions granted to the Universities confirmed.]

VIII. [Exemption for St George's Chapel at Windsor.]

XIII. [Exemption for colleges and schools.]

1 Eliz. Cap. V.

An Act whereby certain offences be made treason.

I. . . . Be it enacted . . . that if any person or persons after the first day of May next to come do maliciously, advisedly and directly compass or imagine to deprive the Queen's Majesty . . . from the style, honour and kingly name of the imperial crown of this realm, or from any other the realms and dominions unto our said Sovereign Lady appertaining, or to destroy the Queen's Majesty . . . or to levy war within this realm or within any the marches or dominions to the same belonging against the Queen's Majesty . . . or to depose the Queen's Majesty . . . from the imperial crown of the realms and dominions aforesaid; and the same compasses or imaginations or any of them, maliciously, advisedly and directly shall

or do utter by open preaching express words or sayings; or if any person or persons after the said first day of May next coming, shall maliciously, advisedly and directly say . . . or hold opinion, that the Queen's Majesty that now is, during her life, is not or ought not to be Queen of this realm, or after her death that the heirs of her Highness' body, being Kings or Queens of this realm, of right ought not to be Kings or Queens of this realm, or that any other person than the Queen's Highness that now is during her life ought to be King or Queen of this realm . . .; that then every such offender being thereof duly convicted . . . their abettors and counsellors . . . shall forfeit and lose to the Queen's Highness, her heirs and successors, all their goods and chattels, and the whole issues and profits of their lands, tenements and hereditaments, for term of the life of every such offender or offenders, and also shall suffer during their lives perpetual imprisonment.

II. Provided . . . that every ecclesiastical person being convicted in form aforesaid . . . shall . . . be . . . deprived from all his benefices and promotions spiritual or ecclesiastical. . . .

III. And if any person being hereafter convicted of any the said offences . . . shall . . . eftsoons commit any of the said offences . . . that then every such second offence shall be deemed high treason and the offenders therein, their abettors [&c.] shall be deemed high traitors, and shall suffer pains of death and forfeit all their goods, chattels, lands and tenements to the Queen's Majesty, her heirs and successors. . . .

IV. And be it further enacted . . . That if any person . . . by any writing, printing, overt deed or act . . . do affirm that the Queen's Majesty that now is ought not to have the style, honour and kingly name of this realm, or that any person other than the Queen's Majesty that now is, ought to have the style, honour, and kingly name of this realm, or that the Queen's Majesty that now is during her life is not or ought not to be Queen of this realm . . . that then every such offence shall be adjudged high treason, and the offender and offenders therein, their abettors [&c.] . . . shall be deemed and adjudged high traitors and shall suffer pains of death and forfeit all their goods [&c.] to the Queen's Majesty. . . .

V. [Saving of titles of strangers.]

VI. Provided . . . that concealment of any high treasons be deemed only misprision of treason and the offenders therein to forfeit and suffer as in cases of misprision of treason hath heretofore been used. . . .

VII. [Peers to be tried by their peers.]

VIII. And be it further enacted . . . that no person shall be impeached for any of the offences above-said committed only by open preaching or words, unless the offender be thereof indicted within six months. . . .

IX. [Punishment of accessories.]

X. Provided . . . that no person shall be hereafter indicted for any offence made treason or misprision of treason by this Act, unless the same offence . . . be proved by the testimony and oath of two lawful and sufficient witnesses at the time of his indictment; which said witnesses also at the time of the arraignment of the party so indicted (if they be then living) shall be brought forth in person before the party so arraigned face to face, and there shall avow all they can say against the said party so indicted, unless the said party so indicted shall willingly without violence confess the same.

1 Eliz. Cap. XI.

An Act limiting the times for laying on land merchandize from beyond the seas, and touching customs for sweet wines.

I. Most humbly showing, beseech your Highness, your Lords and Commons in this present Parliament assembled, That where the sums of money paid in the name of customs and subsidies of wares and merchandizes transported out and brought into this your Highness' realm of England by any merchant, stranger or denizen, is an ancient revenue annexed and united to your imperial crown. . . .

VIII. And where of late years there have been much greater quantity of sweet wines brought into this realm, than in time past hath been accustomed, which be brought from the same place where the wine commonly called malvesey is brought . . . and nevertheless . . . there hath not been such custom received for the same as ought to be paid for such sweet wines . . . be it

enacted that like custom is of very right to be paid and shall from henceforth be paid for such sweet wines as hath been accustomed to be paid for malveseys. . . .

1 Eliz. Cap. XX.

An Act of the subsidy of Tonnage and Poundage.

I. In their most humble wise show unto your most excellent Majesty, your poor and obedient subjects and Commons in this your present Parliament assembled, That where as well your noble Grandfather of worthy memory, King Henry the Seventh . . . as other your right noble and famous progenitors, kings of this your realm of England, time out of mind, have had and enjoyed unto them by authority of Parliament, for the defence of the same now your realm, and the keeping and safeguard of the seas for the intercourse of merchandize, safely to come into and pass out of the same, certain sums of money, named subsidies, of all manner of goods and merchandize, coming in or going out of the same your realm; . . . we your said poor Commons, by the advice and consent of the Lords spiritual and temporal in this your present Parliament assembled, and by the authority of the same, to the intent aforesaid, give and grant to you our supreme Liege Lady and Sovereign, one subsidy called Tonnage, that is to say, of every ton of wine . . . that shall or is come into this your realm, by way of merchandise, the sum of 3*s.*, and so after the rate, and of every ton of sweet wine as well malvesey as other, that shall or is come into the same your realm by any merchant-alien, . . . 3*s.*, and so after the rate, over and above the 3*s.* afore granted; and of every awm of Rhenish wine coming into this your realme . . . 12*d.*: and also one other subsidy called Poundage, that is to say, of all manner of goods and merchandizes of every merchant, denizen, and alien, . . . carried out of this your said realm or brought into the same by way of merchandize, of the value of every 20*s.* of the same goods and merchandize, 12*d.*, and so after the rate; and of every 20*s.* value of tin and pewter vessel carried out of this your realm by any and every merchant-alien, 12*d.* over and above the 12*d.* aforesaid.

II. Except and always foreprized out of this grant of subsidy of Poundage all manner of woollen cloth made within this your realm of England, and by any merchant-denizen, and not born alien, carried out of this your said realm; and all manner of wools, wool-fells, and hides and backs of leather, also carried out of this your realm; and all wines and all manner of fresh fish and bestial coming into the same your realm.

III. And further we your said poor Commons . . . give and grant unto you our said Liege Lady and Sovereign, for the causes aforesaid, one other subsidy, . . . that is to say, of every merchant-denizen for every sack of wool £1 13*s.* 4*d.*; and for every 240 wool-fells £1 13*s.* 4*d.*; and for every last of hides and backs . . . £3 6*s.* 8*d.*; and of every merchant-stranger not born your liege man . . . for every sack of wool £3 6*s.* 8*d.*; and for every 240 wool-fells £3 6*s.* 8*d.*; and also for every last of hides and backs, £3 13*s.* 4*d.*; and so of all the said wools, wool-fells, hides and backs, and every of them after the rate . . .: to have and perceive the subsidies aforesaid . . . to your Highness, from the sixteenth day of November last past, during your life natural.

V. [Goods imported or exported without duty, to be forfeited.]

1 Eliz. Cap. XXI.

An Act of a subsidy and two xv^the^s and x^the^ by the temporality.

I. The care which we do perceive your Majesty hath, most noble and redoubted Sovereign, to reduce this realm and the imperial crown thereof now lately so sore shaken, so impoverished, so enfeebled and weakened, into the former estate, strength and glory, doth make us not only to rejoice much in the great bounteousness of Almighty God, who hath so marvellously and beyond all worldly expectation preserved your Majesty in these late difficult and dangerous times, but also to study and bend all our wits and force of understanding how we may, like loving and obedient subjects, follow our head in this so noble and so necessary an enterprise; . . . Therefore we your most obedient and loving subjects the Lords spiritual and

temporal and the Commons in this present Parliament assembled, to show our willing hearts and good minds, upon mature consultation had, have condescended and agreed with one voice and most entire affections to make your Highness at this time a present; not such in deed as in our affections we do wish it, and as we know most certainly ought to be, but yet of your accustomed clemency which you do show to all men, we humbly on our knees pray your Highness not to reject it, but to accept our good wills and hearty desires herein, and that this our small gift may be by your Highness, the Lords spiritual and temporal and the Commons in this present Parliament assembled, and by the authority of the same enacted, and be it enacted, That your Highness towards the said great costs and inestimable charges, shall have by authority of this present Parliament, two whole fifteens and tenths to be paid, taken and levied of the moveable goods, chattels, and other things usual to such fifteens and tenths to be contributory and chargeable within the shires, cities, boroughs, towns and other places of this your Majesty's realm in manner and form afore time used; except the sum of £12,000 thereof fully to be deducted, that is to say; £6,000 of either of the said whole fifteens and tenths of the sum that one whole xv^th^ and x^th^ attaineth unto, in relief of the poor towns, cities and boroughs of this your said realm wasted, desolate or destroyed or overgreatly impoverished, after such rate as was and hath afore this time been had and made unto every shire, and to be divided in such manner and form as heretofore for one whole xv^th^ and x^th^ hath been had and divided . . . to be paid in manner and form following, that is to say; the first whole fifteen and tenth, except before excepted, to be paid to your Highness in the receipt of your Highness' exchequer, before the tenth day of November next coming; and the said second xv^th^ and x^th^ . . . before the tenth day of November in the year of our Lord God, 1560.

II. And be it further enacted that knights elected and returned of and for the shires within this realm for this present Parliament, citizens of cities and burgesses of boroughs and towns where collectors have been used to be named and appointed for the collection of any xv^th^ and x^th^ before this time

granted, shall name and appoint yearly before the last day of August in either of the said two years, sufficient and able persons for the collection of the said xv^th^ and x^th^ in every of the said shires, cities, boroughs and towns, the said persons then having lands, tenements and other hereditaments in his or their own right of an estate of inheritance of the yearly value of £10, or in goods worth £100 at the least; and also such person or persons so by them to be named and appointed for the collection of either of the said xv^th^ and x^th^ shall be by them severally appointed and allotted into hundreds, rapes, wapentakes, cities, boroughs and towns. . . .

IV. And furthermore for the great and weighty considerations aforesaid, we . . . give and grant to your Highness one entire subsidy to be rated . . . and paid at two several payments, of every person spiritual and temporal, of what estate or degree he or they be, according to the tenor of this Act, in manner and form following, that is to say; as well of every person born within this realm . . . as of every fraternity, guild, corporation, mystery, brotherhood and communalty, corporated or not corporated, within this realm . . . being worth £5, for every pound as well in coin and the value of every pound that every such person, fraternity [&c.] hath of his or their own or any other to his or their use, as also plate, stock of merchandises, all manner of corn and blades, household stuff, and of all other goods moveable, as well within the realm as without, and of all such sums of money as to him or them is or shall be owing, whereof he or they trust surely to be paid, except such sums of money as he or they owe and intendeth truly to pay, and except also the apparel of such persons, their wives and children belonging to their own bodies (saving jewels, gold, silver, stone, and pearl), shall pay to and for the first payment of the said subsidy 1*s.* 8*d.* of every pound, and to and for the second payment of the said subsidy 1*s.* of every pound: and also every alien and stranger born out of the Queen's obeisance, as well denizen as others inhabiting within this realm, of every pound that he or they have in coin, and the value of every pound in . . . chattels moveable or unmoveable as is aforesaid, as well within this realm as without, and of all sums of money to him or them owing (except every

such sum or sums of money which he or they do owe and intend truly to pay), shall pay for every pound to the first payment of the said subsidy, 3*s.* 4*d.*, and to the second payment of the said subsidy 2*s.* of every pound: and also that every alien and stranger born out of the Queen's dominions, being denizen or not denizen, not being contributory to any of the rates above said, shall pay to the first payment of the said subsidy 4*d.*, and to the second payment of the said subsidy other 4*d.* for every poll; and the master or he or she with whom the same alien is or shall be abiding at the time of the taxation or taxations thereof, to be charged with the same for lack of payment thereof.

V. And be it further enacted, That every person born under the Queen's obeisance, and every corporation [&c.], for every pound that every of the same person and every corporation [&c.] or any other to his or their use hath in fee simple, fee tail for term of life, term of years, by execution, wardship or by copy of court roll, of and in any honours, castles, manors, lands, tenements, rents, services, hereditaments, annuities, fees, corodies or other yearly profits of the yearly value of 20*s.* as well within ancient demesne and other places privileged or elsewhere, and so upwards, shall pay to the first payment of the said subsidy 2*s.* 8*d.* of every pound, and to the second payment of the said subsidy 1*s.* 4*d.* of every pound: and every alien born out of the Queen's obeisance, in such case to pay at the first of the said payments 5*s.* 4*d.* of every pound, and at the second payment 2*s.* 8*d.* of every pound; . . . (lands and tenements chargeable to the dismes of the clergy, and yearly wages due to servants for their yearly service, other than the Queen's servants taking yearly wages of £5 or above, only excepted and forprised); . . . except and always forprised from the charge and assessment of this subsidy, all goods, chattels, jewels, and ornaments of churches and chapels which have been ordained and used in churches or chapels for the honour and service of Almighty God.

VIII. And further be it enacted, That for the assessing and ordering of the said subsidy to be duly had, the Lord Chancellor of England or the Keeper of the Great Seal, the Lord Treasurer of England, the Lord Steward of the Queen's Majesty's House-

hold, the Lord President of the Queen's Honorable Council, and the Lord Privy Seal for the time being, or two of them at least, whereof the Lord Chancellor of England or Keeper of the Great Seal for the time being to be one, shall name and appoint for every shire and riding and other places, . . . and also for every city and town being a county in itself, and for the Isle of Wight, such certain number of persons of every of the same shires . . . and every other place, and other the inhabitants of the same, to be commissioners of and within the same, whereof they be inhabitants; and also for the honourable household of the Queen's Majesty in what shire or other places the said household shall happen then to be; and the Lord Chancellor or Keeper of the Great Seal, and other with him before named, in like manner may name and appoint of every other such borough and town corporate, as they shall think requisite, 6, 5, 4, 3, or 2 of the head officers, and other sad honest inhabitants of every of the said cities, boroughs and towns corporate, according to the number and multitude of the people being in the same: . . . and the Lord Chancellor of England or Keeper of the Great Seal for the time being shall make and direct out of the Court of Chancery under the Great Seal several commissions . . . unto such person and persons as by his discretion and other with him aforenamed and appointed, in like manner and form as is afore rehearsed, shall be thought sufficient for the sessing and levying of the said subsidy in all shires and places according to the true meaning of this Act: . . . provided always, that no person shall be compelled to be any commissioner for the execution of this present Act, but only in the shire where he dwelleth. . . .

IX. And it is also enacted, That the commissioners . . . shall, before January 6, 1559, . . . direct their several or joint precept unto . . . three or more, as for the number of the inhabitants shall be requisite, of the most substantial, discreet, and honest persons, inhabitants . . . of and in hundreds . . . and other places, as well within liberties . . . as without . . . and to the constables, sub-constables, bailiffs, and other like officers or ministers of every of the said hundreds . . . and other places beforesaid, . . . straightly by the same precept charging and commanding the same inhabitants, constables and

other officers aforesaid, . . . to appear in their proper persons before the said commissioners . . . at certain days and places . . . to do all that to them on the parties of the Queen's Majesty shall be enjoined touching this Act. . . .

X. And it is further ordained, That the said day and place prefixed and limited in the said precept, every of the commissioners then being in the shire and having no sufficient excuse for his absence . . . shall appear in his proper person, and there the same commissioners being present . . . shall call before them the said inhabitants and officers to whom they have directed their said precepts . . .: and if any person so warned make default, unless he then be letten by sickness or lawful excuse, and that let then be witnessed by the oaths of two credible persons, or if any appearing refuse to be sworn in form following, to forfeit to the Queen's Majesty 40*s.*; . . . and upon the same appearance had, one of the most substantial inhabitants or officer being warned and appearing before the said commissioners, shall be sworn upon a book openly before the commissioners in form following: I shall truly enquire with my fellows that shall be charged with me of the hundred . . . or other place, of the best and most value of the substance of every person dwelling within the limits of the places that I and my fellows shall be charged with, and of other which shall have his or their most resort unto any of the said places, and chargeable with any sum of money by this Act of this subsidy, and of all other articles that I shall be charged with touching the said Act, and according to the intent of the same, and thereupon as near as it may be or shall come to my knowledge, truly to present and certify before you the names, surnames, and the best and uttermost substance and values of every of them, as well of lands . . . as of goods, chattels, debts and other things chargeable by the said Act, without any concealment . . . as near as God will give me grace: So help me God and the holy contents of this book: . . . and upon the oath so taken as is aforesaid, . . . the said commissioners shall openly there read unto them the said rates, and openly declare the effect of their charge unto them, in what manner and form they should make their certificate, . . . and after such oath and the statute of the said subsidy, and the manner of the said certificate . . . to them

declared, the said commissioners there being shall by their discretions appoint and limit unto the said persons another day and place to appear before the said commissioners, and charging the said persons, that they in the meantime shall make diligent inquiry by all ways and means of the premises . . . : and of such as appear ready to make certificate as is aforesaid, the said commissioners there being shall take and receive the same certificate . . . ; and if the same commissioners see cause reasonable, they shall examine the said presenters thereof, and thereupon the said commissioners . . . shall from time to time openly there prefix a day . . . for their further proceeding to the said assessing of the same subsidy; and thereupon at the said day . . . the same commissioners shall make their precept or precepts to the constables . . . or other officers of such hundreds . . . or other places aforesaid as the same commissioners shall be of, comprising in the same precept the names and surnames of all persons presented before them in the said certificate, of whom if the said commissioners . . . shall then have vehement suspect to be of more greater value or substance . . . than upon such persons shall be certified, the same commissioners shall make their precept to the constable, bailiffs or other officers, commanding the same . . . to warn such persons whose names shall be comprised in the said precept, . . . that the same persons shall personally appear before the said commissioners at the same new prefixed day and place, there to be examined by all ways and means, other than by corporal oath, by the said commissioners, of their greatest substance and best value, . . . according to this Act: at which day and place so prefixed the said commissioners . . . shall cause to be called the said persons for their examination; and if any of those persons . . . make default and appear not, . . . that then every of them so making default, to be taxed and charged to the Queen's Majesty at the double sums of the rate that he should have been set at . . . ; which commissioners shall travel with every of the persons so then and there appearing, . . . by all such ways and means they can, other than by corporal oath, for their better knowledge of their best value: . . . and if any person certified or rated by virtue of this Act . . . doth find himself grieved with the same presentment . . ., and thereupon complain to the commissioners

. . ., that then the said commissioners shall . . . examine . . . the persons so complaining and other his neighbours by their discretion . . ., and after due examination and perfect knowledge thereof had . . ., the said commissioners . . . may abate or enlarge the same assessment, according as it shall appear unto them just upon the same examination . . .

XII. Provided always, That every such person which shall be set or taxed for payment to this subsidy after the yearly value of his lands, tenements and other real possessions or profits at any of the said taxations, shall not be taxed for his goods and chattels or other moveable substance at the same taxations; and that he that shall be taxed for the same subsidy for his goods, chattels and other moveables at any of the said taxations, shall not be taxed or chargeable for his lands or other real possessions and profits abovesaid at the same taxations . . .

XIV. And further be it enacted, That the said commissioners of every commission shall according to their divisions . . . have full power to tax and cess every other commissioner joined with them in every such commission and division, and shall also assess every assessor within their division . . .

XV. And that all persons of the estate of a baron and every estate above shall be charged with their freehold and value as is above said, by the Chancellor or Keeper of the Great Seal, Treasurer of England, Lord President of the Queen's Majesty's Privy Council and Lord Privy Seal for the time being, or other persons by the Queen's Majesty's authority to be limited . . .

XVII. And further be it enacted, That the said commissioners . . . shall, for either of the same payments of the said subsidy, name such sufficient and able persons which then shall have lands and other hereditaments in their own right of the yearly value of £20 or goods to the value of 200 marks at the least, . . . to be high collectors and have the collection and receipt of the said sums . . .

XVIII. . . . And every collector so deputed . . . shall have authority by this Act to appoint days and places within the circuit of his collection, for the payment of the said subsidy to him to be made, and thereof to give warning by proclamation

or otherwise to all the constables or other persons or inhabitants having the charge of the particular collection within the hundreds, parishes, towns or other places by him or them limited, to make payment for their said particular collection of every sum as to them shall appertain.) . .

XIX. Provided always, That no person inhabiting in any city, borough or town corporate shall be compelled to be an assessor or collector of the subsidy in any place out of the said city [&c.] where he dwelleth . . .

XXI. It is also enacted, That every of the said high collectors which shall account for any part of the said subsidy . . . shall be allowed . . . for every pound limited to his collection, . . . six pence, as parcel of their charge; that is to say, of every pound thereof for such person as then have had the particular collection in the towns and other places . . . two pence; and other two pence . . . every of the said chief collectors or their accountants to retain to their own use . . .; and two pence . . . to be delivered . . . to such of the commissioners as shall take upon them the business and labour about the premises . . .

XXII. And that no person now being of the number of the company of this present Parliament, nor any commissioner, shall be named or assigned to be any collector or subcollector or presenter of the said subsidy or any part thereof.

XXV. Provided that all persons having manors, lands [&c.] chargeable to the payment of the subsidy, and also having spiritual possessions chargeable to her said Majesty by the grant made by the clergy of this realm in their convocation, and over this having substance in goods and chattels chargeable by this said Act, that then if any of the said persons be hereafter charged for the said manors [&c.] and spiritual possessions, and also charged for their goods and chattels, that then they shall be only charged by virtue of this Act for their said manors [&c.] and spiritual possessions, or only for their said goods and chattels, the best thereof to be taken for the Queen's Majesty, and not to be charged for both, or double charged for any of them . . .

XXVI. Provided that this grant of subsidy nor anything therein contained extend to charge the inhabitants in Ireland, Jersey and Guernsey for any lands . . . goods, chattels or other

moveable substance which the said inhabitants have within Ireland, Jersey and Guernsey . . .

XXVII. Provided also that this present Act of subsidy nor anything therein contained, extend to any of the English inhabitants in any of the counties of Northumberland, Cumberland, Westmoreland, the town of Berwick, the town of Newcastle upon Tyne and the bishopric of Durham, for any lands, . . . goods, chattels or other moveable substance which the same inhabitants . . . have within the said counties [&c.] . . .

XXIX. Provided that no orphan or infant within the age of twenty-one years, born within any of the Queen's Majesty's dominions, shall be charged . . . for goods and chattels to him or her left or bequeathed.

XXX. Provided also that this Act nor anything therein contained shall extend to the goods or lands of any college, hall or hostel within the universities of Oxford and Cambridge, or to the goods or lands of the College of Winton . . . or of the College of Eton . . . or of any common free grammar school, within the realm, or of any reader, schoolmaster or scholar or any graduate within the said universities and colleges there remaining for study . . . or of any hospital . . . used for the sustentation and relief of poor people.

XXXIII. Provided also that the said grant of subsidy do not any wise extend to the inhabitants at this present time within the five ports corporate or to any of their members incorporate or united to the same five ports . . .

1 Eliz. Cap. XXII.

An Act whereby the Queen's Highness may make ordinances and rules in churches collegiate, corporations and schools.

I. Forasmuch as certain cathedral and collegiate churches and other ecclesiastical incorporations and some schools have been erected, founded or ordained by the late Kings of worthy memory, King Henry the Eighth or King Edward the Sixth, or by our late Sovereign Lady Queen Mary and by the late Lord Cardinal Pole, not having as yet ordained and established such good orders, rules and constitutions as should be meet

and convenient for the good order, safety and convenience of the same; Be it therefore enacted, That the Queen's Majesty ... shall by virtue of this Act have full power and authority to make and prescribe unto every of the aforesaid churches, incorporations and schools and unto all the officers, ministers and scholars in them ... such statutes, ordinances and orders as well for the good use and government of themselves ... as also for their houses, lands [&c.]; and that her Majesty may at her pleasure alter ... all the Statutes [&c.] of the aforesaid churches [&c.] from time to time as to her Majesty shall seem expedient ...

1 Eliz. Cap. XXIV.

An Act to annex to the Crown certain religious houses and monasteries and to reform certain abuses in chantries.

I. Whereas, since the decease of our Sovereign Lord King Edward the Sixth ... certain abbeys, priories, hospitals, nunneries, houses of friars, chantries and other religious and ecclesiastical houses, by procurement of certain persons meaning to reduce this your realm rather to darkness and superstition than to the true knowledge and honouring of Almighty God, in the time of the late Queen Mary, your Majesty's sister, were restored or of new entered unto ..., and divers houses, manors, lands ... goods ... and profits, all which or the most thereof until that time were appertaining to the imperial crown of this realm, have been given to the same corporations, as well by the said late Queen Mary ... as also by sundry other persons of this your Majesty's realm; which said abbeys ... and other religious houses and chantries, are now wholly possessed by a few persons born within this realm, owing of duty by the laws of God and of this your Majesty's realm their whole obedience to the said imperial crown of this realm; and yet nevertheless under the colour of certain superstitious religions and professions have not only professed themselves to be subject and obedient to foreign power and authority, to the manifest derogation of the jurisdiction ... of the said imperial crown of this realm, but also by and under the same foreign power and authority only, do yet daily use sundry rules, ordi-

nances, rites and ceremonies in their services and common prayers repugnant to the usage of the holy catholic and apostolic church of Christ; and to the intent that the said abbeys and other religious houses and chantries, and all the houses, manors, lands . . . goods . . . and profits whatsoever to the said religious . . . houses appertaining . . . may be from henceforth by your Highness employed to such good uses for the setting forth of the true honour and glory of God, the advancement of your Majesty's said crown imperial and jurisdiction of the same, and to the aid and relief of the public weal of this your Majesty's realm aforesaid, as unto your Highness shall seem good: . . . Be it enacted, That your Highness shall from henceforth have, hold and enjoy to your Highness, your heirs and successors for ever . . . all the abbeys . . . chantries and other religious and ecclesiastical houses . . . which have been at any time since the decease of our said late Sovereign Lord King Edward the Sixth newly restored . . . or established, and also all the sites, manors, lands . . . and profits whatsoever which appertain . . . to the said . . . religious houses . . .

IV. And furthermore . . . be it enacted, That all the religious and professed persons of the said . . . religious houses as shall like true and faithful subjects freely and willingly take upon the Holy Evangelist one corporal oath set forth in one Act[1] entitled an Act restoring to the crown the ancient jurisdiction over the State ecclesiastical and spiritual [&c.], and shall also from henceforth observe all such manner of service and common prayer as other your Majesty's true and obedient subjects are bounden to observe by the laws of this your realm, and none other, shall before the end of forty days after the end of this session of Parliament have assigned . . . to them, during their natural lives, such convenient pensions or annuities . . . as to your Highness shall seem meet, and shall also at the pleasure of your Majesty remain in such place and house as they have had and held during the time of their profession . . .

[1] 1 Eliz. 1. § 9.

Second Parliament: First Session.

Jan. 11—April 10, 1563.

5 Eliz. Cap. I.

An Act for the assurance of the Queen's Majesty's royal power over all estates and subjects within her Highness' dominions.

For preservation of the Queen's most excellent Highness, her heirs and successors, and the dignity of the imperial crown of this realm of England, and for avoiding both of such hurts, perils, dishonours and inconveniences, as have before-time befallen, as well to the Queen's Majesty's noble progenitors, kings of this realm, as for the whole estate thereof, by means of the jurisdiction and power of the See of Rome, unjustly claimed and usurped within this realm and the dominions thereof, and also of the dangers by the fautors of the said usurped power, at this time grown to marvellous outrage and licentious boldness, and now requiring more sharp restraint and correction of laws, than hitherto in the time of the Queen's Majesty's most mild and merciful reign have been established: Be it therefore enacted . . . That if any person dwelling within this realm . . . after the first day of April, which shall be in the year of our Lord God 1563, shall by writing . . . preaching or teaching, deed or act . . . maintain or defend the authority, jurisdiction or power of the bishop of Rome, or of his see, heretofore claimed, used or usurped within this realm . . . or by any speech, open deed or act, advisedly and wittingly attribute any such manner of jurisdiction, authority or preeminence to the said see of Rome, or to any bishop of the same see for the time being, within this realm . . . that then every such person so doing, their abettors [&c.] . . . being thereof lawfully indicted or presented within one year next after any such offences by him committed, and being lawfully convicted or attainted at any time after, according to the laws of this realm, for every such default and offence shall incur into the . . . penalties . . . provided by the Statute of Provision and Præmunire made in the sixteenth year of the reign of King Richard the Second[1].

[1] 16 R. II. 5.

II. [Justices of Assize, and Justices of the Peace in their Quarter Sessions, to inquire of such offences, and certify into King's Bench.]

III. [Justices of the King's Bench to hear and determine such offences.]

IV. And moreover, be it enacted, That as well all manner of persons expressed and appointed in the Act[1] made in the first year of the Queen's Majesty's reign that now is, intituled, an Act restoring to the crown the ancient jurisdiction over the estate ecclesiastical and spiritual, and abolishing all foreign powers repugnant to the same, to take the oath set forth in the same, as all other persons which have taken or shall take orders, commonly called *Ordines Sacros* or Ecclesiastical Orders, [or] have been or shall be . . . admitted to any degree of learning in any University within this realm . . . and all schoolmasters and public and private teachers of children, as also all manner of persons that have taken or hereafter shall take any degree of learning in the Common Laws of this realm, as well utter-barristers as benchers . . . in any house of court, and all principal treasurers, and such as be of the grand company in every Inn of Chancery, and all attorneys, protonotaries and philizers towards the laws of the realm, and all manner of sheriffs, escheators and feodaries, and all other persons which . . . have been or shall be admitted to any ministry or office in the Common Law or any other law, . . . and all other officers of any court whatsoever, shall take a corporal oath upon the Evangelists, before they shall be admitted . . . to take upon them to . . . exercise . . . any such vocation, office [&c.] as is aforesaid . . .

V. And also be it enacted, That every archbishop and bishop within this realm shall have full power, by virtue of this Act, to tender the oath aforesaid, to every spiritual or ecclesiastical person within their proper diocese, as well in places and jurisdictions exempt as elsewhere.

VI. [The Lord Chancellor may issue special commissions for tendering the oath to particular persons.]

VII. And be it also further enacted, That if any person compellable by this Act or by the said Act made in the said

[1] 1 Eliz. 1.

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first year to take the said oath . . . shall . . . refuse to take the said oath in manner and form aforesaid, that then the party so refusing, and being thereof lawfully indicted or presented within one year next after any such refusal and convicted or attainted at any time after, according to the laws of this realm, shall suffer the penalties ordained and provided by the Statute of Provision and Præmunire aforesaid . . .

VIII. [Such refusal to be certified into King's Bench, and the offender to be indicted there.]

IX. And for stronger defence and maintenance of this Act, it is further enacted, That if any such offender as is aforesaid of the first part of this Statute . . ., after such conviction and attainder as is aforesaid, do eftsoons commit the said offences or any of them in manner aforesaid, and be thereof duly convicted and attainted as is aforesaid; and also, that if any the persons appointed by this Act to take the oath aforesaid do, after the space of three months next after the first tender thereof, the second time refuse to take . . . the same . . ., that then every such offender for the same second offence shall . . . suffer the same pains . . . and execution as is used in cases of high treason.

XIII. And be it further enacted, That every person which hereafter shall be elected or appointed a knight, citizen or burgess, or baron for any of the five ports, for any Parliament hereafter to be holden, shall from henceforth, before he shall enter into the Parliament House or have any voice there, openly receive and pronounce the said oath before the Lord Steward for the time being, or his deputy for that time to be appointed . . .

XIV. Provided always, That forasmuch as the Queen's Majesty is otherwise sufficiently assured of the faith and loyalty of the temporal lords of Her Highness' Court of Parliament, therefore this Act shall not extend to compel any temporal person, of or above the degree of a baron of this realm, to take the oath abovesaid . . .

5 Eliz. Cap. III.

An Act for the relief of the Poor.

I. To the intent that idle and loitering persons and valiant beggars may be avoided, and the impotent, feeble and lame,

which are the poor in very deed, should be hereafter relieved and well provided for: be it enacted . . . That the Statute[1] made in the twenty-second year of the late King of famous memory, Henry the Eighth, and also the Statute[2] made in the third and fourth years of the reign of the famous King Edward the Sixth, concerning beggars, vagabonds and idle persons . . . shall stand in their full force and effect, and shall be also from henceforth justly and truly put in execution . . .

II. And further be it enacted, That yearly upon the Sunday next after the feast day of the Nativity of St John Baptist, commonly called Midsummer Day, in every city, borough and town corporate, the mayor, bailiffs or other head officers for the time being, and in every other parish of the country the parson, vicar or curate and churchwardens shall have written in a register . . . as well the names of the inhabitants and householders within their city . . . or parish, as also the names of all such impotent, aged and needy persons as be within their city . . . or parish, which are not able to live of themselves nor with their own labour; and shall openly in the church and quietly after divine service call the said householders and inhabitants together, among whom the mayor or other head officers and two of the chief inhabitants in every such city [&c.] such as the mayor or other head officers shall think meet, and the parson, vicar or curate and churchwardens in every other parish, shall appoint yearly two able persons or more, to be gatherers and collectors of the charitable alms of all the residue of the people inhabiting in the parish whereof they be chosen collectors for the relief of the poor: which collectors the Sunday next after their election, or the Sunday following, if need require, when the people are at the church at divine service, shall gently ask and demand of every man and woman what they of their charity will be contented to give weekly towards the relief of the poor, and the same to be written in the said register . . .: and the said gatherers . . . shall justly gather and truly distribute the same charitable alms weekly . . . to the said poor and impotent persons . . . without fraud, covin, favour or affection, and after such sort that the more impotent may have the more help, and such as can get part of their living to have the

[1] 22 H. VIII. 12. [2] 3 & 4 E. VI. 16.

less, and by the discretion of the collectors to be put in such labour as they be fit and able to do, but none to go or sit openly a-begging upon pain limited in the aforesaid statutes . . .

III–VI. [Penalties and other provisions for the due execution of the above.]

VII. And be it further enacted, That if any person, being able to further this charitable work, do obstinately refuse reasonably to give towards the help and relief of the poor, or do wilfully discourage other from so charitable a deed, the parson . . . and churchwardens of the parish wherein he dwelleth shall then gently exhort him towards the relief of the poor; and if he will not so be persuaded, then upon the certificate of the parson . . . to the bishop of the diocese or ordinary of the place . . . the same bishop's ordinary . . . shall send for him, to induce him by charitable means to extend [his] charity to the poor . . .; and if the person so sent for . . . shall obstinately refuse to give weekly to the relief of the poor according to his abilities, then the bishop or ordinary of the diocese . . . shall have full power . . . to bind the said obstinate and wilful person so refusing unto the Queen by recognisance . . . with condition . . . that the said obstinate person so refusing shall personally appear before the justices of peace of the county . . . if it be out of any city [&c.], and if it be within any city [&c.] then before the mayors, bailiffs [&c.] of every such city [&c.] . . . and if any such obstinate person shall refuse to be bound as is aforesaid, that then the said bishop, ordinary [&c.] . . . shall have authority . . . to commit the said obstinate person to prison . . .

VIII. And further be it enacted, That the said justices . . . or the mayor [&c.] of every such city [&c.], if the said obstinate person do appear before them, shall charitably and gently . . . move the said obstinate person to extend his charity towards the relief of the poor of the parish where he dwelleth; and if he . . . will not be persuaded therein . . . that then it shall be lawful for the said justices . . . and . . . for the mayor [&c.] of the same city [&c.] with the churchwardens where the said obstinate person shall inhabit, or one of them, to cess, tax and limit upon every such obstinate person so refusing, according to their good discretions, what sum the said obstinate person

shall pay weekly towards the relief of the poor . . . ; and if the said person . . . shall refuse to pay the sum that shall be . . . appointed, then the said Justices of Peace . . . or the said mayor [&c.] shall have full power . . . to commit the said obstinate person . . . to the next gaol . . .

X. And be it further enacted, if it shall chance any parish to have in it more poor and impotent folks . . . than the said parish is able to relieve, that then in every such parish not standing in any city or town corporate, the parson . . . and two or three of the chief inhabitants . . . and in every city or town corporate the mayor or chief officers of the same city . . . and the parson . . . of the said parish calling to them two or three of the chief parishioners . . . shall certify unto the Justices of Peace of the county . . . the number and names of the persons with which they be surcharged, and upon such certificate the said Justices of Peace . . . shall then grant unto such and as many of the said poor folks as by their discretion they shall think good, a sufficient licence . . . to go abroad to beg . . . the charitable alms of the inhabitants of the country out of the said parishes . . . so surcharged; in which licence the infirmity of the person, the places, towns and parishes to which such poor folks by that licence be licenced to resort, shall in the same licence be named . . . and if any of the said poor folks so licenced shall transgress the limits to them appointed . . . the party so transgressing to be taken for a valiant beggar and punished according to the Statute made in the said twenty-second year of King Henry the Eighth . . .

XII. And be it also enacted, That in all cities, boroughs and towns corporate, within which be divers parishes, the mayor and head officers . . . shall consider the state and ability of every such parish; and if the same mayor and officers shall understand that the parishioners of any one of the said parishes . . . have no poverty among them or be able sufficiently to relieve the poverty of the parish where they dwell, and also to succour poverty elsewhere further, that then the said mayor and officers, with the assent of two of the most honest and substantial inhabitants of every such wealthy parish, shall . . . persuade the parishioners of the wealthier parish charitably to contribute somewhat . . . toward the weekly relief . . . of the

poor and needy within the other parish or parishes aforesaid where need is.

5 Eliz. Cap. IV.

An Act touching divers orders for artificers, labourers, servants of husbandry and apprentices.

I. Although there remain in force presently a great number of statutes concerning . . . apprentices, servants and labourers, as well in husbandry as in divers other . . . occupations, yet partly for the imperfection and contrariety . . . in sundry of the said laws, and for the variety and number of them, and chiefly for that the wages and allowances limited in many of the said statutes are in divers places too small . . . respecting the advancement of prices . . . the said laws cannot conveniently without the greatest grief and burden of the poor labourer and hired man be put in due execution; and as the said statutes were at the time of the making of them thought to be very good and beneficial . . ., as divers of them yet are, so if the substance of as many of the said laws as are meet to be continued shall be digested and reduced into one sole law, and in the same an uniform order prescribed . . ., there is good hope that it will come to pass that the same law being duly executed should banish idleness, advance husbandry and yield unto the hired person both in the time of scarcity and in the time of plenty a convenient proportion of wages: Be it therefore enacted . . . That as much of the statutes heretofore made as concern the hiring, keeping, departing, working, wages or order of servants, workmen, artificers, apprentices and labourers . . . shall be from and after the last day of September next ensuing repealed . . .

II. No person after the aforesaid last day of September . . . shall be retained, hired or taken into service to work for any less time than for one whole year in any of the sciences . . . or arts of clothiers, woollen cloth weavers, tuckers, fullers, cloth workers, shearmen, dyers, hosiers, tailors, shoemakers, tanners, pewterers, bakers, brewers, glovers, cutlers, smiths, farriers, curriers, sadlers, spurriers, turners, cappers, hatmakers or

feltmakers, bowyers, fletchers, arrowhead-makers, butchers, cooks or millers.

III. Every person being unmarried and every other person being under the age of thirty years that after the feast of Easter next shall marry, and having been brought up in any of the said arts [&c.] or that hath exercised any of them by the space of three years or more, and not having lands, tenements [&c.] copyhold or freehold of an estate of inheritance or for term of lives of the clear yearly value of 40*s.* nor being worth of his own goods the clear value of £10 . . ., not being retained with any person in husbandry or in any of the aforesaid arts . . . nor in any other art, nor in household or in any office with any nobleman, gentleman or others . . ., nor having a convenient farm or other holding in tillage whereupon he may employ his labour, shall (during the time that he shall so be unmarried or under the age of 30 years), upon request made by any person using the art or mystery wherein the said person so required hath been exercised as is aforesaid, be retained and shall not refuse to serve according to the tenor of this Statute upon the pain and penalty hereafter mentioned.

IV. No person which shall retain any servant shall put away his said servant, and no person retained according to this Statute shall depart from his master, mistress or dame before the end of his term, upon the pain hereafter mentioned, unless it be for some reasonable cause to be allowed before two Justices of Peace or one at the least or before the mayor or other chief officer of the city, borough or town corporate wherein the said master [&c.] inhabiteth, to whom any of the parties grieved shall complain; which said justices or chief officer shall have the hearing and ordering of the matter between the said master [&c.] and servant, according to the equity of the cause; and no such master [&c.] shall put away any such servant at the end of his term or any such servant depart from his said master [&c.] at the end of his term without one quarter warning given . . . upon the pain hereafter ensuing.

V. Every person between the age of 12 years and the age of 60 years not being lawfully retained nor apprentice with any fisherman or mariner haunting the seas, nor being in service with any carrier of any corn, grain or meal for pro-

vision of the city of London, nor with any husbandman in husbandry, nor in any city [&c.] in any of the arts . . . appointed by this Statute to have apprentices, nor being retained . . . for the digging . . . melting . . . making of any silver [or other metals, coal, &c.], nor being occupied in the making of any glass, nor being a gentleman born, nor being a student or scholar in any of the universities or in any school, nor having [lands or goods, as above, § 3], nor having a father or mother then living or other ancestor whose heir apparent he is then having lands [&c.] of the yearly value of £10 or above, or goods or chattels of the value of £40, nor being a necessary or convenient officer or servant lawfully retained as is aforesaid, nor having a convenient farm or holding . . . nor being otherwise lawfully retained according to the true meaning of this Statute, shall . . . by virtue of this Statute be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry and will require any such person so to serve.

VI. [Penalty on masters unduly dismissing servants, 40*s.*: on servants unduly departing or refusing to serve, imprisonment.]

VII. None of the said retained persons in husbandry or in any of the arts or sciences above remembered, after the time of his retainer expired, shall depart forth of one city, town or parish to another nor out of the . . . hundred nor out of the county where he last served, to serve in any other city . . . or county, unless he have a testimonial under the seal of the said city or of the constable or other head officer and of two other honest householders of the city, town or parish where he last served, declaring his lawful departure . . ., which testimonial shall be delivered unto the said servant and also registered by the parson of the parish where such master [&c.] shall dwell . . .

VIII. [Penalty on a servant departing without such testimonial, imprisonment or whipping; on any one hiring him, £5.]

IX. All artificers and labourers being hired for wages by the day or week shall betwixt the midst of the months of March and September be at their work at or before 5 of the clock in the morning, and continue at work until betwixt 7 and 8 of the clock at night, except it be in the time of break-

fast, dinner or drinking, the which times at the most shall not exceed above 2½ hours in the day . . . and all the said artificers and labourers between the midst of September and the midst of March shall be at their work from the spring of the day in the morning until the night of the same day, except it be in time afore appointed for breakfast and dinner, upon pain to forfeit one penny for every hour's absence to be deducted out of his wages.

X. [Penalty on artificers, &c. breaking contract with employers, imprisonment and fine of £5.]

XI. And for the declaration what wages servants, labourers and artificers, either by the year or day or otherwise, shall receive, be it enacted, That the justices of the peace of every shire . . . within the limits of their several commissions . . . and the sheriff of that county if he conveniently may, and every mayor, bailiff or other head officer within any city . . . wherein is any justice of peace, within the limits of the said city . . . shall before the 10th day of June next coming and afterward yearly at every general sessions first to be holden after Easter, or at some time convenient within six weeks next following Easter, calling unto them such discreet and grave persons of the said county or city as they shall think meet, and conferring together respecting the plenty or scarcity of the time and other circumstances necessary to be considered, have authority within the limits of their several commissions to rate and appoint the wages as well of such of the said artificers . . . or any other labourer, servant or workman whose wages in time past hath been by any law rated and appointed, as also the wages of all other labourers, artificers [&c.] which have not been rated, as they shall think meet to be rated [&c.] by the year or by the day, week, month or otherwise, with meat and drink or without meat and drink, and what wages every workman or labourer shall take by the great for mowing, reaping or threshing [and other agricultural employment] and for any other kind of reasonable labours or service, and shall yearly before the 12th day of July next after the said assessment made certify the same . . . with the considerations and causes thereof into the Court of Chancery; whereupon it shall be lawful to the Lord Chancellor of England [or] Lord Keeper upon declaration thereof to the

Queen's Majesty . . . or to the Lords and others of the Privy Council to cause to be printed and sent down before the 1st day of September next after the said certificate into every county . . . proclamations containing the several rates appointed . . . with commandment . . . to all persons . . . straitly to observe the same, and to all Justices [&c.] to see the same duly and severely observed . . .; upon receipt whereof the said Sheriffs, Justices [&c.] shall cause the same proclamation to be entered of record . . . and shall forthwith in open markets upon the market days before Michaelmas then ensuing cause the same proclamation to be proclaimed . . . and to be fixed in some convenient place . . .: and if the said sheriffs, justices [&c.] shall at their said general sessions or at any time after within six weeks . . . think it convenient to retain for the year then to come the rates of wages that they certified the year before or to change them, then they shall before the said 12th day of July yearly certify into the said Court of Chancery their resolutions, to the intent that proclamations may accordingly be renewed and sent down, and if it shall happen that there be no need of any alteration . . . then the proclamations for the year past shall remain in force . . .

XII. [Penalty on Justices absent from sessions for rating wages, £5.]

XIII. [Penalty for giving wages higher than the rate, ten days' imprisonment and fine of £5; for receiving the same, twenty-one days' imprisonment.]

XIV. [Penalty on servants, &c. assaulting masters, &c., one year's imprisonment.]

XV. Provided that in the time of hay or corn harvest the Justices of Peace and also the constable or other head officer of every township upon request . . . may cause all such artificers and persons as be meet to labour . . . to serve by the day for the mowing . . . or inning of corn, grain and hay, and that none of the said persons shall refuse so to do, upon pain to suffer imprisonment in the stocks by the space of two days and one night . . .

XVI. [Proviso for persons going harvesting into other counties.]

XVII. Two justices of peace, the mayor or other head officer

of any city [&c.] and two aldermen or two other discreet burgesses . . . if there be no aldermen, may appoint any such woman as is of the age of 12 years and under the age of 40 years and unmarried and forth of service . . . to be retained or serve by the year or by the week or day for such wages and in such reasonable sort as they shall think meet; and if any such woman shall refuse so to serve, then it shall be lawful for the said justices [&c.] to commit such woman to ward until she shall be bounden to serve as aforesaid.

XVIII. And for the better advancement of husbandry and tillage and to the intent that such as are fit to be made apprentices to husbandry may be bounden thereunto . . . every person being a householder and having half a ploughland at the least in tillage may receive as an apprentice any person above the age of 10 years and under the age of 18 years to serve in husbandry until his age of 21 years at the least, or until the age of 24 years as the parties can agree . . .

XIX. Every person being an householder and 24 years old at the least, dwelling in any city or town corporate and exercising any art, mystery or manual occupation there, may after the feast of St John Baptist next coming . . . retain the son of any freeman not occupying husbandry nor being a labourer and inhabiting in the same or in any other city or town incorporate, to be bound as an apprentice after the custom and order of the city of London for 7 years at the least, so as the term of such apprentice do not expire afore such apprentice shall be of the age of 24 years at the least.

XX. Provided that it shall not be lawful to any person dwelling in any city or town corporate exercising any of the mysteries or crafts of a merchant trafficking into any parts beyond the sea, mercer, draper, goldsmith, ironmonger, embroiderer or clothier that doth put cloth to making and sale, to take any apprentice or servant to be instructed in any of the arts [&c.] which they exercise, except such servant or apprentice be his son, or else that the father or mother of such apprentice or servant shall have . . . lands, tenements [&c.] of the clear yearly value of 40*s.* of one estate of inheritance or freehold at the least . . .

XXI. From and after the said feast of St John the Baptist

next, it shall be lawful to every person being an householder and 24 years old at the least and not occupying husbandry nor being a labourer dwelling in any town not being incorporate that is a market town . . . and exercising any art, mystery or manual occupation . . . to have in like manner to apprentices the children of any other artificer not occupying husbandry nor being a labourer, which shall inhabit in the same or in any other such market town within the same shire, to serve as apprentices as is aforesaid to any such art [&c.] as hath been usually exercised in any such market town where such apprentice shall be bound.

XXII. Provided that it shall not be lawful to any person dwelling in any such market town exercising the art of a merchant trafficking into the parts beyond the seas, mercer [&c. as above, § XX] to take any apprentice or in any wise to instruct any person in the arts [&c.] last before recited, after the feast of St John Baptist aforesaid, except such servant or apprentice shall be his son, or else that the father or mother of such apprentice shall have lands [&c.] of the clear yearly value of £3 of one estate of inheritance or freehold at the least . . .

XXIII. From and after the said feast it shall be lawful to any person exercising the art of a smith, wheelwright, ploughwright, millwright, carpenter, rough mason, plaisterer, sawyer, lime-burner, brickmaker, bricklayer, tiler, slater, healyer, tilemaker, linen weaver, turner, cooper, millers, earthen potters, woollen weaver weaving housewives' or household cloth only and none other, cloth-fuller otherwise called tucker or walker, burner of ore and wood ashes, thatcher or shingler, wheresoever he shall dwell, to have the son of any person as apprentice . . . albeit the father or mother of any such apprentice have not any lands, tenements or hereditaments.

XXIV. After the first day of May next coming it shall not be lawful to any person, other than such as now do lawfully exercise any art, mystery or manual occupation, to exercise any craft now used within the realm of England or Wales, except he shall have been brought up therein seven years at the least as apprentice in manner abovesaid, nor to set any person on work in such occupation being not a workman at this day, except he shall have been apprentice as is aforesaid, or else

having served as an apprentice will become a journeyman or be hired by the year; upon pain that every person willingly offending shall forfeit for every default 40*s.* for every month.

XXV. Provided that no person exercising the art of a woollen cloth weaver, other than such as be inhabiting within the counties of Cumberland, Westmoreland, Lancaster and Wales, weaving friezes, cottons or housewives' cloth only, making and weaving woollen cloth commonly sold by any clothier, shall have any apprentice or shall instruct any person in the science of weaving aforesaid in any place (cities, towns corporate and market towns only except), unless such person be his son, or else that the father or mother of such apprentice or servant shall . . . have lands [&c.] to the clear yearly value of £3 of an estate of inheritance or freehold . . . upon pain of forfeiture of 20*s.* for every month . . .

XXVI. Every person that shall have three apprentices in any of the said crafts of a cloth maker, fuller, shearman, weaver, tailor or shoemaker shall keep one journeyman, and for every other apprentice above the number of the said three apprentices one other journeyman, upon pain of every default therein £10.

XXVII. [Proviso for worsted-makers of Norwich.]

XXVIII. If any person shall be required by any householder having half a ploughland at the least in tillage to be an apprentice and to serve in husbandry or in any other kind of art before expressed and shall refuse so to do, then upon the complaint of such housekeeper made to one Justice of Peace of the county wherein the said refusal is made, or of such householder inhabiting in any city, town corporate, or market town to the mayor, bailiffs or head officer of the said city [&c.] . . . they shall have full power to send for the same person so refusing; and if the said Justice or head officer shall think the said person meet to serve as an apprentice in that art . . . the said Justice or head officer shall have power . . . to commit him unto ward, there to remain until he will be bounden to serve . . . and if any such master shall evil entreat his apprentice . . . or the apprentice do not his duty to his master, then the said master or apprentice being grieved shall repair unto one Justice of Peace within the said county or to the head officer of the place where the said master dwelleth, who shall . . . take such

order and direction between the said master and his apprentice as the equity of the case shall require; and if for want of good conformity in the said master the said Justice or head officer cannot compound the matter between him and his apprentice, then the said Justice or head officer shall take bond of the said master to appear at the next sessions then to be holden in the said county or within the said city [&c.] . . . and upon his appearance and hearing of the matter . . . if it be thought meet unto them to discharge the said apprentice, then the said Justices or four of them at the least, whereof one to be of the quorum, or the said head officer, with the consent of three other of his brethren or men of best reputation within the said city [&c.], shall have power . . . to pronounce that they have discharged the said apprentice of his apprenticehood . . .: and if the default shall be found to be in the apprentice, then the said Justices or head officer, with the assistants aforesaid, shall cause such due punishment to be ministered unto him as by their wisdom and discretions shall be thought meet.

XXIX. Provided that no person shall by force of this Statute be bounden to enter into any apprenticeship other than such as be under the age of 21 years.

XXX. And to the end that this Statute may from time to time be . . . put in good execution . . . be it enacted, That the Justices of Peace of every county, dividing themselves into several limits, and likewise every mayor or head officer of any city or town corporate, shall yearly between the feast of St Michael the Archangel and the Nativity of our Lord, and between the feast of the Annunciation of our Lady and the feast of the nativity of St John Baptist . . . make a special and diligent inquiry of the branches and articles of this Statute and of the good execution of the same, and where they shall find any defaults to see the same severely corrected and punished without favour . . . or displeasure.

XXXI. . . . Every Justice of Peace, mayor, or head officer, for every day that he shall sit in the execution of this Statute, shall have allowed unto him 5*s.* to be paid . . . of the fines [&c.] due by force of this Statute . . .

XXXII. [Procedure for recovery of penalties.]

XXXIII. Provided always that this Act shall not be prejudi-

cial to the cities of London and Norwich, or to the lawful liberties [&c.] of the same cities for the having of apprentices.

XXXIV. [Contracts of apprenticeship contrary to this Act to be void, and a penalty of £10.]

XXXV. [Contracts of apprenticeship to hold good though made while the apprentice is under age.]

5 Eliz. Cap. XXIX.

An Act for the Confirmation of a Subsidy granted by the Clergy.

I. Where the prelates and clergy of the province of Canterbury have most lovingly and liberally, for certain considerations, given and granted to the Queen's Majesty a subsidy of 6*s.* of the pound, to be taken and levied of all and singular the spiritual promotions within the same province during the term of three years now next ensuing, in such certain manner and form, and with such exceptions and provisions, as be specified and contained in a certain instrument by them thereof made and delivered to the Queen's Highness, . . . which instrument is now exhibited in this present Parliament to be ratified; the tenor whereof ensueth in these words:

The prelates and clergy of the province of Canterbury, being lawfully congregated and assembled together in a Convocation or Synod, calling to their remembrance the great and manifold benefits which they have many and sundry ways received of your Majesty's most gracious bountifulness, principally for the setting forth and advancing of God's holy Word, his sincere and true religion, and abolishing all foreign power contrary to the same, . . . have given and granted, and by these presents do give and grant, to your Highness, your heirs and successors, one subsidy in manner and form following, that is to say: that every archbishop, bishop, dean, archdeacon, prebendary, provost, master of college, master of hospitals, parson, vicar, and every other parson of whatsoever name or degree he be, enjoying any spiritual promotion or other temporal possessions to the same spiritual promotion annexed . . . shall pay to your Highness, your heirs and successors, for every pound that he may yearly dispend by reason of the said spiritual promotion, the sum of 6*s.*: and for the true and certain value of the said promo-

tions . . . the valuation remaining of record in your Majesty's Court of Exchequer, for the true payment of the perpetual disme . . . shall be followed . . . ; provided always that, forasmuch as the tenth part of the said valuation and rate before mentioned is yearly paid to your Highness for the perpetual disme, so as there remaineth only nine parts to the incumbent clear, this subsidy of 6*s.* the pound shall be understanded only of the same nine parts and of no more: provided always, that no parson that is already promoted to any spiritual benefice or promotion since the last day of September last past, or that hereafter shall be promoted to any spiritual benefice or promotion on this side the last day of September 1565, by reason whereof they may be charged to the payment of the first fruits, shall be charged . . . with any part of this subsidy during the first year of his said promotion: and your said prelates and clergy also do grant that this subsidy of 6*s.* the pound . . . shall be paid to your Majesty, your heirs or successors, within three years next ensuing the date hereof, that is to say, 2*s.* of every pound in every of the said three years . . . ; and to be delivered and paid yearly by such person and persons as in this present grant shall be appointed to have the collection thereof to the Lord High Treasurer or Under-Treasurer of England for the time being, or to such person or persons and in such place or places as it shall please your Highness to appoint . . .

Item, We your said Grace's prelates and clergy also do grant, that every priest and all other spiritual or ecclesiastical persons, having any pension by reason of the dissolution of any the late monasteries, . . . or of any other spiritual dignity or corporation now dissolved within the said province of Canterbury, shall likewise pay to your Highness, your heirs and successors, 6*s.* of every pound of the said pensions within the said three years, . . . Item, Your said prelates and clergy further do grant that every archbishop and bishop, and the see being void every Dean and Chapter of that see void, shall be collectors of this subsidy within their proper diocese during the said three years, other than of the pensioners aforesaid; . . . and 6*d.* of every pound wherewith the collector shall be charged in his account, . . . shall be allowed to the said collector for his said account for the same. for the charges and collection . . . of the said subsidy: . . .

provided always, that every incumbent making such default of payment . . . shall forfeit and lose only that his benefice or promotion for which he maketh default . . . : provided always that no spiritual promotion or any lands, possessions or revenues annexed to the same, . . . or any goods or chattels growing of the same or appertaining to the owners of the said spiritual promotion shall be made contributory to any fifteen or tenth or any other subsidy already granted to your Highness by the laity or hereafter to be granted during the term of the said three years: . . . provided always, that all parsons and vicars whose benefices be of the valuation of £5 or under . . . shall not be charged with this subsidy; provided also that every priest and all other late ecclesiastical persons, having a pension by reason of the dissolution of the late monasteries . . . or any other incorporations within the province of Canterbury, and being of the sum of 40*s.* or under, shall not be charged to this said subsidy, . . . : and for the true and sure payment of this subsidy . . . your said prelates and clergy most humbly desire your Highness that this their said gift . . . may be ratified by authority of this your Highness' court of Parliament.

Wherefore for the true and sure payment of the said subsidy . . . be it enacted by the Queen's Majesty with the assent of the Lords spiritual and temporal and the Commons in this present parliament assembled and by the authority of the same, That the said gift and grant . . . may be ratified, established and confirmed by the authority aforesaid.

IV. And be it further enacted, That all grants of all sums of money which hereafter shall be granted to the Queen's Majesty by the clergy of the province of York shall be of the same effect as the said grant made by the said province of Canterbury; and shall be taxed . . . and paid according to the tenor of the present Act of Parliament. . .

Second Parliament: Second Session.

Sept. 30, 1566—Jan. 2, 1567.

8 Eliz. Cap. IV.

An Act to take away the Benefit of Clergy from certain felonious Offenders.

Where a certain kind of evil-disposed persons, commonly called cut-purses, or pick-purses, but indeed by the laws of this land very felons and thieves, do confeder together, making among themselves, as it were, a brotherhood or fraternity of an art or mystery to live idly by the secret spoil of the good and true subjects of this realm. . . . Be it therefore enacted, That no person which hereafter shall happen to be indicted or appealed for felonious taking of any money, goods, or chattels from the person of any other . . . and thereupon found guilty by verdict of twelve men . . . shall from henceforth be admitted to have the benefit of his clergy, but . . . shall suffer death in such manner and form, as they should if they were no clerks . . .

Third Parliament.

April 2—May 29, 1571.

13 Eliz. Cap. I.

An Act whereby certain offences be made treason.

I. Forasmuch as it is of some doubted, whether the laws and statutes of this realm, remaining at this present in force are vailable and sufficient enough for the surety and preservation of the Queen's most royal person, in whom consisteth all the happiness and comfort of the whole state and subjects of the realm, . . . be it enacted, That if any person at any time after the last day of June next . . . compass . . . the death or destruction or any bodily harm tending to death, destruction, maim or wounding of . . . our Sovereign Lady Queen Elizabeth;

or to deprive or depose her of the style, honour or kingly name of the imperial crown of this realm or of any other realm or dominion to her Majesty belonging; or to levy war against her Majesty within this realm or without; or to move any foreigners with force to invade this realm or the realm of Ireland or any other her Majesty's dominions . . ., and such compasses . . . shall . . . expressly utter or declare by any printing, writing . . . or sayings; or if any person . . . shall . . . say . . . that our said Sovereign Lady Queen Elizabeth, during her life is not or ought not to be Queen of this realm of England and also of the realms of France and Ireland; or that any other person ought of right to be king or queen of the said realms . . . during her Majesty's life; or shall by writing, printing, . . . or sayings . . . affirm that the Queen . . . is an heretic, schismatic, tyrant, infidel or an usurper of the crown . . . that then all such offences shall be deemed . . . to be high treason; and that as well the principal offender or offenders therein as all and every the abettors . . ., being thereof lawfully . . . convicted and attainted according to the usual order of the common laws of this realm or according to the Act[1] made in the 35th year of the reign of the late king . . . Henry the Eighth . . . entitled an Act concerning the trial of treasons [&c.] . . ., shall be deemed traitors to the Queen and the realm, and shall suffer pains of death and also forfeit unto the Queen's Majesty, her heirs and successors, all lands . . . goods and chattels, as in cases of high treason . . . ought to be forfeited and lost.

II. And be it also enacted, That every person . . . which shall after the end of thirty days next after the last day of this present session of this parliament, at any time in the life of our Sovereign Lady Queen Elizabeth, in any wise claim . . . to have right or title to . . . the crown of England during the life of our said Sovereign Lady; or shall usurp the same crown or the royal style, title or dignity . . . in the life of our said Sovereign Lady; or shall affirm that our said Sovereign Lady hath not right to hold the said crown [&c.]; or shall not after any demand on our said Sovereign Lady's part . . . acknowledge our said Sovereign Lady to be . . . lawful Queen of this realm; they and every of them so offending shall be utterly disabled . . .

[1] 35 H. VIII. 2.

to have . . . the crown or realm of England . . . in succession, inheritance or otherwise after the decease of our said Sovereign Lady, as if such person were naturally dead; . . .

III. And be it further enacted, That if any person shall during the Queen's Majesty's life in any wise affirm or maintain any right . . . in succession or inheritance to the crown of England after our said Sovereign Lady the Queen to be lawfully due unto any such claimer, pretender . . . or not acknowledger, so that the Queen shall by proclamation . . . notify or declare such claiming . . . or not acknowledging, then every person which after such proclamation shall . . . affirm any right in succession . . . to be in any such claimer [&c.] shall be a high traitor and suffer and forfeit as in cases of high treason is accustomed.

IV. And be it further enacted, That if any person shall affirm or maintain that the common laws of this realm not altered by Parliament ought not to direct the right of the crown of England, or that our said Sovereign Lady Elizabeth . . ., with and by the authority of the Parliament of England, is not able to make laws and statutes of sufficient force and validity to limit and bind the crown of this realm and the descent . . . thereof, or that this present statute or any other statute to be made by the authority of the Parliament of England with the royal assent . . . for limiting of the crown, or any statute for recognizing the right of the said crown and realm to be justly and lawfully in . . . our said Sovereign Lady the Queen, is not . . . of good and sufficient force . . . ; every such person so affirming during the life of the Queen's Majesty shall be judged a high traitor and suffer and forfeit as in cases of high treason is accustomed; . . .

V. And for the avoiding of contentions and seditions, spreading abroad of titles to the succession of the crown of this realm . . . be it enacted, That whosoever shall hereafter during the life of our said Sovereign Lady, by any book or work printed or written . . . affirm at any time before the same be by Act of Parliament of this realm established, . . . that any person is or ought to be the right heir and successor to the Queen's Majesty . . . except the same be the natural issue of her Majesty's body, or shall . . . publish . . . any books or scrolls to that effect, . . . that he, their abettors [&c.] shall for the first

offence suffer imprisonment of one whole year and forfeit half his goods, whereof the one moiety to the Queen's Majesty, the other moiety to him or them that will sue for the same . . . in any of the Queen's Majesty's courts; . . . and if any shall eftsoons offend therein, then they and their abettors [&c.] shall incur the pains and forfeitures which in the Statute of Provision or Præmunire are appointed and limited.

VI. Provided alway; That if it shall happen hereafter any peer of this realm to be indicted of any offence made treason by this Act, he shall have his trial by his peers, as in other cases of treason is accustomed.

VIII. Provided also . . . That no person shall in any wise be arraigned for any of the offences mentioned in this Act to be committed within any the Queen's dominions, unless the offender be thereof there indicted within six months next after the same offence committed; . . . and that no person shall in any wise be arraigned for any the offences mentioned in this act to be committed out of any the Queen's dominions, unless the offender be thereof indicted within one year next after the same offence committed . . .

IX. Provided also . . . That no person shall be hereafter arraigned for any offence mentioned in this Act, unless the same offence be proved by the . . . oath of two lawful and sufficient witnesses; which said witnesses shall, at the time of the arraignment of such person so offending, be brought forth in person before the party so arraigned face to face, and there shall avow and openly declare all they can say against the party so arraigned, unless the said party arraigned shall willingly without violence confess the same . . .

13 Eliz. Cap. II.

An Act against the bringing in and putting in execution of Bulls and other instruments from the see of Rome.

Where in the parliament holden at Westminster, in the fifth year of the reign of our Sovereign Lady the Queen's Majesty that now is, by one Act[1] and Statute then and there made, intituled, An Act for the assurance of the Queen's Majesty's Royal Power [&c.] it is among other things very well ordained

[1] 5 Eliz. I.

and provided, for the abolishing of the usurped power and jurisdiction of the Bishop of Rome . . . That no person shall . . . maintain, defend, or extol the same usurped power, or attribute any manner jurisdiction, authority or preeminence to the same to be used within this realm . . . upon pain to incur the penalties provided by the Statute of Provision and Præmunire . . .: and yet nevertheless, divers seditious and very evil-disposed people . . . minding, as it should seem, very seditiously and unnaturally not only to bring this realm and the imperial crown thereof (being in very deed of itself most free) into the thraldom and subjection of that foreign, usurped, and unlawful jurisdiction [&c.] claimed by the said see of Rome; but also to estrange and alienate the minds and hearts of sundry her Majesty's subjects from their dutiful obedience, and to raise and stir sedition and rebellion within this realm . . . have lately procured and obtained to themselves from the said Bishop of Rome and his said see, divers bulls and writings, the effect whereof hath been and is to absolve and reconcile all those that will be contented to forsake their due obedience to our most gracious Sovereign Lady the Queen's Majesty, and to yield and subject themselves to the said feigned, unlawful and usurped authority; and by colour of the said bulls and writings, the said wicked persons very secretly and most seditiously, in such parts of this realm where the people for want of good instruction are most weak, simple and ignorant, and thereby farthest from the good understanding of their duties towards God and the Queen's Majesty, have by their lewd and subtle practices and persuasions, so far forth wrought, that sundry simple and ignorant persons have been contented to be reconciled to the said usurped authority of the see of Rome, and to take absolution at the hands of the said naughty and subtle practisers, whereby hath grown great disobedience and boldness in many, not only to withdraw and absent themselves from all divine service . . . but also have thought themselves discharged of all obedience to her Majesty, whereby most wicked and unnatural rebellion hath ensued, and to the further danger of this realm is hereafter very like to be renewed, if the ungodly and wicked attempts in that behalf be not by severity of laws in time restrained and bridled: For remedy and redress whereof, and to prevent the greta

mischiefs and inconveniences that thereby may ensue, be it enacted . . . That if any person, after the first day of July next coming, shall use or put in ure in any place within this realm . . . any such bull, writing, or instrument . . . of absolution or reconciliation . . ., or if any person after the said first day of July shall take upon him, by colour of any such bull . . . or authority, to absolve or reconcile any person . . ., or if any person within this realm, . . . after the said first day of July, shall willingly receive any such absolution or reconciliation; or else, if any person have obtained since the last day of the parliament holden in the first year of the Queen's Majesty's reign, or after the said first day of July shall obtain from the said Bishop of Rome . . . any manner of bull . . . or instrument . . ., or shall publish or by any ways or means put in ure any such bull . . ., That then every such act . . . shall be deemed by the authority of this Act to be high treason, and the offenders therein, their procurers [&c.] . . . shall be deemed high traitors to the Queen and the realm; and being thereof lawfully indicted and attainted according to the course of the laws of this realm, shall suffer pains of death, and also forfeit all their lands [&c.] as in cases of high treason by the laws of this realm ought to be forfeited.

II. And be it further enacted, That all aiders [&c.] of any the said offenders, after the committing of any the said acts . . . shall incur the penalties contained in the Statute of Præmunire . . .

III. Provided always . . . That if any person to whom any such absolution . . . or instrument as is aforesaid shall, after the said first day of July, be offered . . . shall conceal the same . . . and not disclose and signify the same . . . within six weeks then next following, to some of the Queen's Majesty's Privy Council, or else to the President or Vice President of the Queen's Majesty's Council established in the north parts, or in the marches of Wales . . . that then the same person so concealing . . . the said offer . . . shall incur the penalty of misprision of high treason.

IV. And be it further enacted, That if any person shall at any time after the said first day of July bring into this realm of England . . . any . . . thing called by the name of an Agnus

Dei, or any crosses, pictures, beads or such-like vain and superstitious things, from the Bishop or see of Rome . . . and divers pardons, immunities and exemptions granted by the authority of the said see, to such as shall receive and use the same; and that if the same person so bringing in as is aforesaid such Agnus Dei and other like things as be before specified, shall deliver . . . the same to any subject of this realm . . . to be worn or used in any wise: That then as well the same person so doing, as also every other person which shall receive the same, to the intent to use or wear the same, being thereof lawfully convicted and attainted by the order of the common laws of this realm, shall incur into the penalties ordained by the Statute of Præmunire and Provision . . .

VI. And be it further enacted, That all persons which at any time since the beginning of the first year of the Queen's Majesty's reign have brought . . . into this realm any such bulls [&c.] . . . and now have any of the same bulls [&c.] in their custody, and shall within the space of three months next after the end of any session or dissolution of this present parliament deliver all such bulls [&c.] . . . to the bishop of the diocese where such absolution hath been given and received . . . and shall publicly before such bishop confess their offence therein and humbly desire to be restored . . . to the Church of England, shall be clearly pardoned and discharged of all offences done in any matter concerning any of the said bulls [&c.] touching such absolution or reconciliation only; and that all persons which have received any absolution from the said Bishop of Rome . . . since the said first year of the reign of our said Sovereign Lady the Queen, and shall within the said space of three months next after any session or dissolution of this present parliament, come before the bishop of the diocese of such place where such absolution or reconciliation was had or made, and shall publicly before the same bishop confess . . . their offence therein, and humbly desire to be restored, and admitted to the Church of England, shall be clearly pardoned and discharged of all offences committed in any matter concerning the said bulls [&c.] touching only receiving such absolution or reconciliation . . .

VIII. [Peers to be tried by Peers.]

13 Eliz. Cap. XII.

An Act to reform certain disorders touching Ministers of the Church.

I. That the churches of the Queen's Majesty's dominions may be served with pastors of sound religion, Be it enacted . . . That every person under the degree of a Bishop, which doth or shall pretend to be a priest or minister of God's Holy Word and Sacraments, by reason of any other form of institution, consecration or ordering, than the form set forth by parliament in the time of the late king of most worthy memory, King Edward the Sixth, or now used in the reign of our most gracious Sovereign Lady, before the feast of the Nativity of Christ next following, shall, in the presence of the Bishop or guardian of the spiritualities of some one diocese where he hath ecclesiastical living, declare his assent and subscribe to all the Articles of Religion which only concern the confession of the true Christian faith and the doctrine of the sacraments, comprised in a book imprinted, intituled, Articles whereupon it was agreed by the archbishops and bishops of both provinces and the whole clergy in the Convocation holden at London in . . . 1562 . . ., upon pain that every such person which shall not before the said feast do as is above appointed, shall be *ipso facto* deprived, and all his ecclesiastical promotions shall be void, as if he were then naturally dead.

II. And that if any person ecclesiastical, or which shall have ecclesiastical living, shall advisedly maintain or affirm any doctrine directly contrary to any of the said articles, and being convented before the bishop of the diocese or the ordinary, or before the Queen's Highness' Commissioners in causes ecclesiastical, shall persist therein, . . . such maintaining . . . shall be just cause to deprive such person of his ecclesiastical promotions; and it shall be lawful to the bishop of the diocese or the ordinary or the said commissioners to deprive such person so persisting, . . . and upon such sentence of deprivation pronounced he shall be indeed deprived.

III. And that no person shall hereafter be admitted to any benefice with cure, except he then be of the age of three and

twenty years at the least, and a deacon, and shall first have subscribed the said Articles in presence of the ordinary, and publicly read the same in the parish church of that benefice, with declaration of his unfeigned assent to the same . . .

IV. And that none shall be made minister or admitted to preach or minister the sacraments, being under the age of four and twenty years, nor unless he first bring to the bishop of that diocese, from men known to the bishop to be of sound religion, a testimonial both of his honest life, and of his professing the doctrine expressed in the said Articles: nor unless he be able to answer and render to the ordinary an account of his faith in Latin, according to the said Articles, or have special gift and ability to be a preacher: nor shall be admitted to the order of deacon or ministry, unless he shall first subscribe to the said Articles.

V. And that none hereafter shall be admitted to any benefice with cure of or above the value of £30 yearly . . . unless he shall then be a bachelor of divinity, or a preacher lawfully allowed by some bishop within this realm or by one of the universities of Cambridge or Oxford.

Fourth Parliament: First Session.

May 8—June 30, 1572.

14 Eliz. Cap. I.

An Act for the punishment of such as shall rebelliously take or detain or conspire to take or detain from the Queen's Majesty any of her castles, towers, fortresses, holds, &c.

I. For the better avoiding of all such unlawful practices . . . as lately have been stirred and moved by some evil disposed persons against our most gracious Sovereign Lady the Queen, . . . be it enacted . . . That if any persons whatsoever at any time hereafter do, within this realm or elsewhere, unlawfully . . . conspire . . . maliciously and rebelliously to take or to detain from our said Sovereign Lady the Queen any of her

castles . . ., or maliciously and rebelliously to raze, burn or destroy any castle . . . having any munition or ordnance of the Queen's Majesty's therein or appointed to be guarded with any soldiers for defence thereof within this realm . . ., and the same . . . conspiracies shall advisedly . . . express, utter or declare for any the malicious and rebellious intents aforesaid, that then every such person so hereafter offending, their aiders [&c.] knowing thereof, being thereof lawfully convicted according to the laws of this realm, shall be judged felons . . ., and the offenders therein, their said aiders [&c.], being thereof lawfully convicted, shall suffer pains of death as in cases of felony, without having any benefit of clergy or sanctuary . . .

II. And be it further enacted, That if any person do at any time hereafter with force maliciously and rebelliously . . . withhold from the Queen's Majesty any of her castles . . . within this realm . . . or do . . . withhold from her Majesty any of her ships, ordnance, artillery or other munitions or fortifications of wars . . . or shall . . . burn or destroy . . . any of the Queen's ships, or . . . bar any haven within any of the Queen's Majesty's dominions, that then every such person so offending, their aiders [&c.], being thereof lawfully convict according to the laws of this realm, shall be adjudged traitors, and their offences in any of the premises shall be taken for high treason, and the offenders therein . . . shall suffer such pains of death, and also shall forfeit and lose, as in cases of high treason is limited and accustomed.

III. This Act to endure during the Queen's Majesty's life that now is only.

14 Eliz. Cap. II.

An Act against such as shall conspire or practise the enlargement of any prisoner committed for high treason.

I. Forasmuch as great danger may ensue to the Queen's Majesty's person and great trouble to the state of the realm by unlawful conspiracies . . . to set at liberty such persons as be committed to any custody for any treason touching the royal person of our said Sovereign Lady; against which conspiracies sufficient remedy by the laws of this realm hath not been

heretofore had, unless the same conspiracies . . . were executed and brought to effect: be it therefore enacted . . . That if any person at any time after the end of this present session of parliament shall conspire . . . to set at liberty any person committed to any custody by her Highness' especial commandment, for any treason or suspicion of treason concerning the person of our said Sovereign Lady the Queen, before any indictment of such person . . ., and the same conspiracies . . . shall . . . utter or declare, that then every person so offending shall incur the penalty and forfeiture of misprision of treason . . .

II. And be it also enacted, That if any person . . . shall . . . conspire . . . to set at liberty any person committed to any custody, being indicted of any treason in any wise concerning the person of our said Sovereign Lady the Queen, and the same conspiracies . . . shall . . . utter or declare, that then every such person so offending shall be deemed a felon . . .

III. And be it further enacted, That if any person . . . shall . . . conspire . . . to set at liberty any person being committed to any custody, after the same person shall be attainted or convicted of any treason in any wise concerning the royal person of our said Sovereign Lady the Queen, and the same conspiracies . . . shall . . . utter or declare, that then every such person so offending shall be deemed an high traitor and shall suffer loss and forfeit as in cases of high treason by the laws and statutes of this realm.

IV. This Act to endure during the Queen's Majesty's life that now is only.

14 Eliz. Cap. V.

An Act for the punishment of vagabonds, and for relief of the poor and impotent.

I. Where all the parts of this realm of England and Wales be presently with rogues, vagabonds and sturdy beggars exceedingly pestered, by means whereof daily happeneth in the same realm horrible murders, thefts and other great outrages, to the high displeasure of Almighty God, and to the great annoy of the commonweal; and for avoiding confusion by reason of numbers of laws concerning the premises standing in

force together; be it enacted, That [certain acts[1] recited] shall be . . . void and of none effect.

II. Be it also enacted . . . first, That all persons above the age of fourteen years, being hereafter set forth by this Act of Parliament to be rogues, vagabonds or sturdy beggars and . . . taken begging in any part of this realm, or taken vagrant wandering and misordering themselves contrary to the purport of this present Act of Parliament . . . , shall upon their apprehension be brought before one of the justices of the peace or mayor or chief officer of cities, boroughs and towns corporate . . . and . . . be presently committed to the common gaol . . . , there to remain without bail until the next sessions of the peace or general gaol delivery . . . ; at which sessions or gaol-delivery if such person be duly convict of his or her roguish or vagabond trade of life, either by inquest of office or by the testimony of two honest and credible witnesses upon their oaths, that then immediately he or she shall be adjudged to be grievously whipped and burnt through the gristle of the right ear with a hot iron of the compass of an inch about . . . ; which judgment shall also presently be executed, except some honest person, valued at the last subsidy next before that time to £5 in goods or 20*s.* in lands, or else some such honest householder as by the justices of peace . . . shall be allowed, will of his charity be contented presently to take such offender . . . into his service for one whole year next following; . . . and if such rogue or vagabond so taken into service depart within the said year from the said service against the will of him that so taketh him or her into service, that then such rogue or vagabond shall be whipped and burnt . . . as is aforesaid.

IV. And be it further enacted, That . . . if after the said punishment executed . . . the said person . . . after threescore days next after he shall be so marked, . . . being of the age of eighteen years or above, do eftsoones fall again to any kind of roguish or vagabond trade of life, that then the said rogue . . . be deemed a felon, and shall suffer and forfeit as a felon, except some honest person valued [as above] of mere charity will be contented . . . to take him or her into his service for two whole years . . . : and if such rogue or vagabond so taken into service

[1] 22 H. VIII. 12 : 3 & 4 E. VI. 16 : 5 Eliz. 3.

depart within the same two years from his or her said service against the will of him that so took him or her, that then such rogue or vagabond shall be deemed a felon in all respects and shall suffer and forfeit as a felon . . .

V. And for the full expressing what persons shall be intended within this branch to be rogues, vagabonds and sturdy beggars . . . it is now set forth . . . that all persons that be or utter themselves to be proctors or procurators . . . without sufficient authority . . . , and all other idle persons . . . using subtle, crafty and unlawful games or plays, and some of them feigning themselves to have knowledge in physiognomy, palmistry or other abused sciences, . . . and all persons being whole and mighty in body and able to labour, having not land or master nor using any lawful merchandise, craft or mystery . . . ; and all fencers, bearwards, common players in interludes and minstrels, not belonging to any baron of this realm or towards any other honourable personage of greater degree; all jugglers, pedlars, tinkers and petty chapmen; which said fencers [&c.] shall wander abroad and have not licence of two justices of the peace . . . ; and all common labourers being persons able in body using loitering, and refusing to work for such reasonable wages as is taxed and commonly given . . . ; and all counterfeiters of licences, passports and all users of the same, knowing the same to be counterfeit; and all scholars of the universities of Oxford or Cambridge that go about begging, not being authorised under the seal of the said universities . . . ; and all shipmen pretending losses by sea, other than such as shall be hereafter provided for; and all persons delivered out of gaols that beg for their fees . . . not having licence from two justices of the peace . . . , shall be deemed rogues, vagabonds and sturdy beggars . . .

XVI. And forasmuch as charity would that poor, aged and impotent persons should as necessarily be provided for, as the said rogues, vagabonds and sturdy beggars repressed, and that the said aged, impotent and poor people should have convenient habitations and abiding places throughout this realm to settle themselves upon, to the end that they nor any of them should hereafter beg or wander about; it is therefore enacted, That the justices of the peace . . . mayors, sheriffs, bailiffs, and

other officers of every city, borough, riding and franchise . . . shall at or before the said feast of St Bartholomew next coming . . . make diligent search and inquiry of all aged, poor, impotent and decayed persons . . . , which live . . . by alms of the charity of the people . . . , and shall upon that search made, make a register book containing the names and surnames of all such . . . poor people . . . ; and . . . shall . . . appoint . . . meet and convenient places by their discretions to settle the same poor people for their habitations and abidings, if the parish within the which they shall be found shall not or will not provide for them ; and shall also . . . number all the said poor people within their said several limits, and thereupon (having regard to the number) set down what portion the weekly charge towards the relief and sustentation of the said poor people will amount unto within every their said limits; and that done, they . . . shall . . . assess all the inhabitants dwelling . . . within the said limits to such weekly charge as they and every of them shall weekly contribute towards the relief of the said poor people, and the names of all such inhabitants taxed shall also enter into the said register-book together with their taxation; and also shall . . . appoint or see collectors for one whole year to be appointed . . . , which shall collect the said proportion, and make delivery of so much thereof . . . to the said poor people, as the said justices . . . and other officers shall appoint them; and also shall appoint the overseers of the said poor people by their discretions, to continue also for one whole year ; and if they do refuse to be overseers, then every of them so refusing to forfeit 10*s.* for every such default.

XVII. And be it further enacted, That the mayor of the city of London and the mayors . . . and other head officers of every other city, borough, or town corporate . . . , and the constables or tithing-men of every hundred, rape and wapentake . . . shall once every month . . . make a view and search of all the aged, impotent and lame persons within the precinct of their jurisdictions, and . . . presently see the same poor people not there born nor dwelling within the said three years (except leprous people and bedridden people) to be conveyed . . . to the next constable, and so from constable to constable the directest way, till the said persons be brought to the place where he or she was

born or most conversant by the space of three years next before, and there to be put in . . . one of the abiding-places in that country appointed . . .

XVIII. And be it further enacted, That if any of the said poor people . . . refuse to be bestowed in any of the said abiding-places . . . or after they be once bestowed . . . do depart and beg, then the said person so offending for the first offence . . . to suffer as a rogue or vagabond in the first degree of punishment set forth by this Act, and if he do the second time offend, then to . . . suffer as a rogue or vagabond in the last degree of punishment set forth by this Act.

XXI. And be it further enacted, That if any person being able to further this charitable work will obstinately refuse to give towards the relief of the said poor people or do wilfully discourage others . . . the said obstinate person . . . shall presently be brought before two justices of the peace . . . to show the cause of his obstinate refusal or wilful discouragement and to abide such order therein as the said justices shall appoint; if he refuse so to do, then to be committed to the next gaol . . . there to remain until he be contented with their said order and do perform the same.

XXII. And it is also further enacted, That if any of the said aged and impotent persons, not being so . . . impotent but that they may work in some manner of work, shall be by the overseers of their said abiding-place appointed to work, if they refuse, then in form aforesaid to be whipped and stocked for their first refusal, and for the second refusal to be punished as in case of vagabonds in the said first degree of punishment.

XXIII. Provided . . . that three justices of peace . . . of and with the surplusages of the said collections and forfeitures, (the said poor and impotent people satisfied and provided for,) shall in such convenient places within their said shires as they shall think meet, place and settle to work the rogues and vagabonds that shall be disposed to work, born within their said counties or there abiding for the most part within the said three years, there to be holden to work by the oversight of the said overseers, to get their livings and to live and to be sustained only upon their labour and travail.

XXIV. [Beggars' children may be bound out to service.]

XXV. [Forfeitures under this Act to be applied to the relief of the poor.]

XXVI. And be it further enacted, That three justices of peace within all the shires of this realm, whereof one to be of the quorum, shall have full power . . . to hear and determine all causes (except forfeitures of justices of peace) that shall come in question by reason of this present Act.

XXXVIII. Provided always, that whereas by reason of this Act the common gaols . . . are like to be greatly pestered with a more number of prisoners than heretofore hath been . . . it shall be lawful for the justices of peace of every shire, at their general quarter sessions . . ., to rate and tax every parish within the said shires at such reasonable sums of money for the relief of the said prisoners as they shall think convenient, so that the said taxation doth not exceed above 6*d.* or 8*d.* by the week out of every parish; and that the churchwardens of every parish shall every Sunday levy the same . . .

Fourth Parliament: Second Session.

Feb. 8—March 15, 1576.

18 Eliz. Cap. III.

An Act for the setting of the poor on work, and for the avoiding of idleness.

I. For some better explanation and for some needful addition to the statute [14 Eliz. 5] be it ordained . . .

IV. . . . That in every city and town corporate within this realm a competent store and stock of wool, hemp, flax, iron or other stuff by order of the mayor . . . or other head officers . . . shall be provided; and that likewise in every other market-town or other place where (to the justices of peace in their general sessions yearly next after Easter shall be thought most meet) a like competent store and stock of wool [&c.] or other stuff as the country is most meet for . . . shall be provided, the said stores and stocks in such cities and towns corporate to be committed to the custody of such persons as shall by the mayor

or other head officers in every such city or town corporate be appointed, and in other towns and places to such persons as by the said justices of peace in their said general sessions . . . shall be by them appointed; which said persons . . . shall from henceforth be called the collectors and governors of the poor, to the intent every such poor and needy person . . . able to do any work . . . shall not for want of work go abroad either begging or committing pilferings or other misdemeanours . . .; which collectors from time to time (as cause requireth) shall, of the same stock and store, deliver to such poor and needy person a competent portion to be wrought into yarn or other matter . . ., for which they shall make payment to them which work the same according to the desert of the work . . .; which hemp [&c.] or other stuff, wrought from time to time, shall be sold by the said collectors . . . and with the money coming of the sale to buy more stuff . . .; and if hereafter any such person able to do any such work shall refuse to work . . . or taking such work shall spoil or embezzle the same . . . he, she or they shall be received into such house of correction, there to be straightly kept, as well in diet as in work, and also punished from time to time . . .

V. And moreover be it enacted, That within every county of this realm one, two or more abiding houses or places convenient in some market-town or corporate town or other place, by . . . order of the justices of peace in their said general sessions . . . shall be provided, and called houses of correction, and also stock and store and implements be provided for setting on work and punishing not only of those which by the collectors and governors of the poor for causes aforesaid to the said houses of correction shall be brought, but also of such as be inhabiting in no parish, or be taken as rogues . . . or for any other cause ought to be abiding and kept within the same county . . .

VI. And be it also further enacted, That the said justices of peace, in their said general sessions, shall appoint from time to time overseers of every such house of correction, which said persons shall be called the censors and wardens of the houses of correction . . .; and shall also appoint others for the gathering of such money as shall be taxed upon any persons

within their several jurisdictions towards the maintenance of the said houses of correction, which shall be called the collectors for the houses of correction; and if any person refuse to be collector and governor of the poor or censor and warden or collector for any the houses of correction, that every person so refusing shall forfeit the sum of £5 . . .

18 Eliz. Cap. VII.

An Act to take away clergy from the offenders in rape and burglary, and an order for the delivery of clerks convict without purgation.

I. For the repressing of . . . rapes . . . and of felonious burglaries, and for the avoiding of sundry perjuries and other abuses in and about the purgation of clerks convict delivered to the ordinaries; be it enacted . . . That if any person shall fortune . . . to commit rape or burglary, and to be found guilty . . . , that in every such case every person so being found guilty . . . shall suffer pains of death and forfeit as in cases of felony hath been accustomed by the common laws of this realm, without any allowance of the privilege or benefit of clergy . . .

Fourth Parliament: Third Session.

Jan. 16—March 18, 1581.

23 Eliz. Cap. I.

An Act to retain the Queen's Majesty's subjects in their due obedience.

I. Where since the statute [13 Eliz. 2] divers evil-affected persons have practised contrary to the meaning of the said statute, by other means than by bulls or instruments written or printed, to withdraw divers the Queen's Majesty's subjects from their natural obedience to her Majesty, to obey the said usurped authority of Rome . . .: for reformation whereof, and to declare the true meaning of the said law, be it enacted,

That all persons whatsoever, which . . . shall by any ways or means put in practice to . . . withdraw any of the Queen's Majesty's subjects . . . from their natural obedience to her Majesty, or to withdraw them for that intent from the religion now by her Highness' authority established . . . to the Romish religion, or to move them to promise any obedience to any pretended authority of the See of Rome, or of any other prince, state or potentate, to be used within her dominions, or shall do any overt act to that intent or purpose, . . . shall be adjudged to be traitors, and being thereof lawfully convicted shall . . . suffer and forfeit as in case of high treason: and if any person shall . . . be willingly absolved or withdrawn as aforesaid, or willingly be reconciled, or shall promise any obedience to any such pretended authority [&c.], that then every such person, their procurers and counsellors thereunto, being thereof lawfully convicted . . . shall suffer as in cases of high treason.

II. And be it likewise enacted, That all persons that shall wittingly be aiders or maintainers of such persons so offending . . ., or which shall conceal any offence aforesaid, and shall not within twenty days . . . disclose the same to some justice of peace or other higher officer . . . shall suffer and forfeit as offenders in misprision of treason.

III. And be it likewise enacted, That every person which shall say or sing mass, being thereof lawfully convicted, shall forfeit the sum of 200 marks and be committed to prison in the next gaol, there to remain by the space of one year, and from thenceforth till he have paid the said sum of 200 marks: and that every person which shall willingly hear mass shall forfeit the sum of 100 marks, and suffer imprisonment for a year.

IV. Be it also further enacted, That every person above the age of sixteen years, which shall not repair to some church, chapel or usual place of common prayer, . . . and being thereof lawfully convicted, shall forfeit to the Queen's Majesty, for every month . . . which he or she shall so forbear, £20 of lawful English money: and that over and besides the said forfeitures, every person so forbearing, by the space of twelve months as aforesaid, shall for his or her obstinacy, after certificate thereof in writing made into the King's Bench, by the ordinary of the diocese, a justice of assize and gaol-delivery, or a justice of

peace of the county where such offender shall dwell, be bound with two sufficient sureties in the sum of £200 at the least to good behaviour, and so continue bound until such time as the persons so bound do conform themselves . . .

V. And be it further enacted, That if any person, body politic or corporate . . . shall keep any schoolmaster, which shall not repair to church as is aforesaid, or be allowed by the bishop or ordinary of the diocese where such schoolmaster shall be so kept [such person, &c.], shall forfeit for every month so keeping him £10; . . . and such schoolmaster or teacher presuming to teach contrary to this Act . . . shall be disabled to be a teacher of youth, and shall suffer imprisonment without bail for one year.

VI. And be it likewise enacted, That all offences against this Act, or against the Acts[1] of the first, fifth or thirteenth years of her Majesty's reign, touching acknowledging of her Majesty's supreme government in causes ecclesiastical, or other matters touching the service of God, or coming to church, or establishment of true religion in this realm, shall be inquirable as well before justices of peace as other justices named in the same statutes, within one year and a day after every such offence committed . . .

VII. Be it likewise enacted, That justices of Oyer and Terminer and justices of assize and of gaol-delivery shall have power to hear and determine all offences against this statute, and justices of peace in their open quarter sessions of peace shall have power to inquire, hear and determine all offences against this Act, except treason and misprision of treason . . .

VIII. And be it likewise enacted, That all forfeitures of any sums of money limited by this Act shall be divided in three equal parts, whereof one third part shall be to the Queen's Majesty to her own use, one other third part to the Queen's Majesty for relief of the poor in the parish where the offence shall be committed . . . , and the other third part to such person as will sue for the same . . .

[1] 1 Eliz. 1 and 2 : 5 Eliz. 1 : 13 Eliz. 2.

23 Eliz. Cap. II.

An Act against seditious words and rumours uttered against the Queen's most excellent Majesty.

I. Whereas by the laws and statutes of this realm, already made against seditious words and rumours uttered against the Queen's most excellent Majesty, there is not sufficient and condign punishment provided for to suppress the malice of such as be evil affected towards her Highness: be it therefore enacted, That if any person . . . shall advisedly and with a malicious intent . . . speak any false, seditious and slanderous news, rumours, sayings or tales against our said most natural Sovereign Lady the Queen's Majesty that now is, that then every such person, being thereof lawfully convicted or attainted in form hereafter in this present Act expressed, shall for every such first offence either be in some market place within the shire, city or borough where the said words were spoken, set openly upon the pillory . . . if it shall fortune to be without any city or town corporate, and if it shall happen to be within any city or town corporate . . . to have both his ears cut off; or at the election of the offender pay £200 to the Queen's Highness' use . . . and also shall suffer imprisonment by the space of six months . . .

II. And be it further enacted, That all persons which shall advisedly and with malicious intent against our said Sovereign Lady report any false, seditious and slanderous news, rumours or tales, to the slander and defamation of our said Sovereign Lady the Queen's Majesty that now is, of the speaking or reporting of any other, that then all persons so reporting, being thereof convicted and attainted in form hereafter in this Act expressed, shall for every such first offence either be in some market place within the shire . . . or town where the said words were reported set openly upon the pillory . . . if it shall fortune to be without any city or town corporate, and if it shall happen to be within any city or town corporate . . . to have one of his ears cut off; or at the election of the offender pay 200 marks to the Queen's Highness' use . . ., and shall also suffer imprisonment by the space of three months . . .

III. And be it further enacted, That if any person once lawfully convicted for any of the offences aforesaid, do afterwards eftsoones offend in any of the offences aforesaid, that then every such second offence to be deemed felony, and the offender to suffer such pains of death and forfeiture as in case of felony, without any benefit of clergy or sanctuary . . .

IV. And be it further enacted, That if any person either within this realm . . . or in any other place out of the Queen's dominions, shall advisedly and with a malicious intent against our said Sovereign Lady, devise and write, print or set forth any manner of book . . . or writing, containing any false seditious and slanderous matter to the defamation of the Queen's Majesty that now is, or to the encouraging . . . of any insurrection or rebellion within this realm . . .; or if any person . . . either within this realm . . . or in any other place out of the Queen's dominions, shall advisedly and with a malicious intent against our said Sovereign Lady cause any such book . . . or writing to be written, printed, published or set forth, and the said offence not being punishable by the Statute[1] made in the 25th year of the reign of King Edward the Third concerning treason [&c.] or by any other statute whereby any offence is made treason, that then every such offence shall be deemed felony, and the offenders therein . . . shall suffer such pains of death and forfeiture as in case of felony is used, without any benefit of clergy or sanctuary . . .

V. And for that divers persons wickedly disposed and forgetting their duty and allegiance have of late not only wished her Majesty's death, but also by divers means practised and sought to know how long her Highness should live, and who should reign after her decease, and what changes and alterations should thereby happen; . . . be it also enacted, That if any person . . . during the life of our said Sovereign Lady the Queen's Majesty that now is, either within her Highness' dominions or without, shall by setting or erecting any figure or by casting of nativities or by calculation or by any prophesying, witchcraft, conjurations, or other like unlawful means whatsoever, seek to know, and shall set forth by express words, deeds or writings, how long her Majesty shall live, or who shall

[1] 25 E. III. (5) 2.

reign a king or queen of this realm of England after her Highness' decease, or else shall advisedly and with a malicious intent against her Highness, utter any manner of direct prophecies to any such intent, or shall maliciously by any words, writing or printing desire the death or deprivation of our Sovereign Lady the Queen's Majesty that now is . . . that then every such offence shall be felony, and every offender therein, and also all his aiders [&c], shall be judged as felons and shall suffer pains of death and forfeit as in case of felony is used, without any benefit of clergy or sanctuary.

VI. And be it further enacted, That the justices of King's Bench, justices of Oyer and Terminer, justices of assizes . . . in their several circuits, and justices of general gaol-delivery . . . shall have full power to inquire of and to hear and determine all the offences aforesaid; and that the party indicted and arraigned of any the offences aforesaid shall have advantage of all manner of challenges to the jury as in trial of felony is used; and also that all justices of peace . . . in their general or quarter sessions shall have full power to inquire of all the offences aforesaid and to cause the offenders therein to be indicted without any further proceeding therein; and that also every justice of peace . . . shall have full power to commit any person being vehemently suspected of any the said offences to ward, unless he do put in sureties to make his personal appearance at the next quarter sessions or gaol-delivery; and in default of finding such sureties, then to commit him to prison, there to remain until he shall find sureties for his appearance as is aforesaid.

VII. And be it further enacted, That all offences made felony by this Act, which hereafter shall be committed out of this realm of England, shall be from henceforth inquired of, heard and determined before the Queen's Majesty's justices of her bench for pleas to be holden before herself, by good and lawful men of the same county where the same bench shall be kept, in like manner as if the same offences had been committed within the same county . . .

VIII. Provided that no manner of person shall be molested or impeached for any of the offences . . . aforesaid, unless he be thereof accused within one month next after such words so

spoken or reported before some one justice of peace . . . ; and unless such offender also be indicted within one year next after his offence so supposed to be committed.

IX. Provided also that every such mayor . . . or other head officer of cities, boroughs and towns corporate, which have jurisdiction . . . to hold and keep sessions as justices of the peace, shall as well arrest and commit to ward or bail . . . every person vehemently suspected of any the offences aforesaid, as also to inquire of all the offences aforesaid, and to proceed to the indicting of every such offender without any further proceeding therein . . .

XIII. Provided that no person shall be hereafter indicted or attainted for any offence as aforesaid unless the same offence be proved by . . . two sufficient witnesses at the time of his indictment; which said witnesses . . . shall be brought forth in person before the party so arraigned face to face, and there shall openly declare all they can say against the said party so indicted, unless the said party shall willingly and without violence confess the same.

XV. And be it likewise enacted, That this Act nor anything therein contained shall . . . be in force for any longer time than only during the natural life of our said Sovereign Lady the Queen's most excellent Majesty that now is; whom God long preserve to his glory, her Highness' honour and safety, and to the common wealth of all her Majesty's dominions. Amen.

Fifth Parliament.

Nov. 23, 1584—March 29, 1585.

27 Eliz. Cap. I.

An Act for provision to be made for the surety of the Queen's Majesty's most royal person and the continuance of the realm in peace.

I. Forasmuch as the good felicity and comfort of the whole estate of this realm consisteth (only next under God) in the surety and preservation of the Queen's most excellent Majesty; and for that it hath manifestly appeared that sundry wicked

plots and means have of late been devised and laid, as well in foreign parts beyond the seas as also within this realm, to the great endangering of her Highness' most royal person, and to the utter ruin of the whole common weal, if by God's merciful providence the same had not been revealed: therefore for preventing of such great perils . . . be it enacted, If at any time after the end of this present session of Parliament, any open invasion or rebellion shall be made into or within any of her Majesty's dominions, or any act attempted tending to the hurt of her Majesty's most royal person, by or for any person that may pretend any title to the crown of this realm after her Majesty's decease; or if anything shall be compassed or imagined tending to the hurt of her Majesty's royal person by any person or with the privity of any person that may pretend title to the crown of this realm; That then, by her Majesty's commission under her Great Seal, the Lords and others of her Highness' Privy Council and such other Lords of Parliament to be named by her Majesty as with the said Privy Council shall make up the number of twenty-four at the least, having with them for their assistance in that behalf such of the judges of the Courts of Record at Westminster as her Highness shall for that purpose assign . . ., shall by virtue of this Act have authority to examine all the offences aforesaid and all circumstances thereof, and thereupon to give sentence or judgment as upon good proof the matter shall appear unto them: and that after such sentence or judgment given and declaration thereof made and published by her Majesty's Proclamation under the Great Seal of England, all persons against whom such sentence or judgment shall be so given and published shall be excluded and disabled for ever to have or claim . . . the crown of this realm . . .: and that thereupon all her Highness' subjects may lawfully . . . by all forcible and possible means pursue to death every such wicked person, by whom or by whose means, assent or privity any such invasion or rebellion shall be in form aforesaid denounced to have been made, or such wicked act attempted, or other thing compassed or imagined against her Majesty's person, and all their aiders [&c.]: and if any such detestable act shall be executed against her Highness' most royal person, whereby her Majesty's life shall be taken away (which God of his great

mercy forbid), that then every such person by or for whom any such act shall be executed and their issues, being any wise assenting or privy to the same, shall be excluded and disabled for ever to have or claim . . . the said crown of this realm . . .: and that all the subjects of this realm may lawfully, by all forcible and possible means, pursue to death every such wicked person by whom or by whose means any such detestable fact shall be in form hereafter expressed denounced to have been committed, and also their issues being any way assenting or privy to the same, and all their aiders [&c.]

II. And to the end that the intention of this law may be effectually executed, if her Majesty's life shall be taken away by any violent or unnatural means (which God defend): be it further enacted, That the Lords and others which shall be of her Majesty's Privy Council at the time of such her decease . . . joining unto them for their better assistance five other Earls and seven other Lords of Parliament at the least (foreseeing that none of the said Earls, Lords or council be known to be persons that make any title to the crown), those persons which were Chief Justices of every Bench, Master of the Rolls and Chief Baron of the Exchequer at the time of her Majesty's death, or in default of the said Justices, Master of the Rolls and Chief Baron, some other of those which were Justices of some of the Courts of Record at Westminster at the time of her Highness' decease to supply their places, or any twenty-four or more of them, whereof eight to be Lords of Parliament not being of the Privy Council, shall . . . examine the cause and manner of such her Majesty's death, and what persons shall be any way guilty thereof, and all circumstances concerning the same . . .; and thereupon shall by open proclamation publish the same, and without any delay, by all forcible and possible means, prosecute to death all such as shall be found to be offenders therein, and all their aiders and abettors; and for the doing thereof and for the withstanding and suppressing of all such power and force as shall any way be levied or stirred in disturbance of the due execution of this law, shall have power not only to raise and use such forces as shall in that behalf be needful, but also to use all other means and things possible and necessary for the maintenance of the same forces and

prosecution of the said offenders; and if any such power and force shall be levied or stirred in disturbance of the due execution of this law by any person that may pretend any title to the crown of this realm . . ., that then every such person shall be therefore excluded and disabled for ever to have or claim . . . the crown of this realm. . . .

III. And be it further enacted, That all the subjects of all her Majesty's dominions shall to the uttermost of their power aid the said Council [&c.] in all things to be done according to this law; and that no subject of this realm shall in any wise be impeached in body, lands or goods at any time hereafter for anything to be done according to this law. . . .

IV. And whereas of late many of her Majesty's good and faithful subjects have, in the name of God and with the testimony of good consciences, by one uniform manner of writing under their hands and seals and by their several oaths voluntarily taken, joined themselves together in one bond and association, to withstand and revenge to the uttermost all such malicious actions and attempts against her Majesty's most royal person: . . . be it enacted, That the same association and every article and sentence therein contained, as well concerning the disabling of any person that may pretend any title to come to the crown of this realm, and also for the pursuing . . . of any person for any such wicked act or attempt as is mentioned in the same association, shall be in all things expounded and adjudged according to the true meaning of this Act, and not otherwise nor against any other person.

27 Eliz. Cap. II.

An Act against Jesuits, seminary priests and such other like disobedient persons.

I. Whereas divers persons called or professed Jesuits, seminary priests and other priests, which have been and from time to time are made in the parts beyond the seas, according to the order and rites of the Romish Church, have of late years come . . . and daily do come . . . into this realm of England and other the Queen's Majesty's dominions, of purpose (as hath appeared as well by sundry of their own examinations and confessions,

as by divers other manifest means and proofs) not only to withdraw her Highness' subjects from their due obedience to her Majesty, but also to stir up and move sedition, rebellion and open hostility within her Highness' dominions, to the great endangering of the safety of her most royal person and to the utter ruin, desolation and overthrow of the whole realm, if the same be not the sooner by some good means foreseen and prevented: for reformation whereof be it enacted . . . That all Jesuits, seminary priests and other priests whatsoever made or ordained . . . by any authority . . . derived . . . from the See of Rome, since the feast of the Nativity of St John Baptist in the first year of her Highness' reign, shall within forty days next after the end of this present session of Parliament, depart out of this realm of England and out of all other her Highness' realms and dominions . . .

II. And be it further enacted, That it shall not be lawful for any Jesuit, seminary priest or other . . . ecclesiastical person whatsoever, being born within this realm . . . and heretofore since the said feast of the Nativity of St John Baptist in the first year of her Majesty's reign . . . ordained . . . by any authority derived . . . from the See of Rome . . . to come into or remain in any part of this realm . . . after the end of the same forty days, other than in such special cases and upon such special occasions only and for such time only as is expressed in this Act; and if he do, that then every such offence shall be adjudged to be high treason, and every person so offending shall for his offence be adjudged a traitor and shall suffer . . . as in case of high treason; and every person which, after the end of the same forty days, . . . shall wittingly and willingly . . . aid or maintain any such Jesuit [&c.] as is aforesaid . . . shall also for such offence be adjudged a felon, without benefit of clergy, and suffer death and forfeit as in case of one attainted of felony.

III. And be it further enacted, If any of her Majesty's subjects (not being a Jesuit . . . or ecclesiastical person as is before mentioned) now being or which hereafter shall be brought up in any college of Jesuits or seminary . . . in the parts beyond the seas . . . shall not, within six months next after proclamation in that behalf to be made in the city of London . . . , return into this realm, and thereupon within two

days next after such return, before the bishop of the diocese or two justices of peace of the county where he shall arrive, submit himself to her Majesty and her laws and take the oath set forth by Act in the first year of her reign; That then every such person which shall otherwise return, come into or be in this realm . . . shall also be adjudged a traitor, and suffer and forfeit as in case of high treason.

IV. And be it further enacted, If any person under her Majesty's subjection or obedience shall at any time after the end of the said forty days, by way of exchange or by any other means . . . convey . . . or cause to be conveyed . . . over the seas . . . into any foreign parts, or shall otherwise . . . give any money or other relief to or for any Jesuit . . . or ecclesiastical person as is aforesaid, or for the maintenance or relief of any college of Jesuits or seminary . . . in any the parts beyond the seas . . . or of any person then being of or in the same colleges or seminaries and not returned into this realm with submission . . . That then every such person so offending for the same offence shall incur the penalty of præmunire, mentioned in the Statute of Præmunire . . .

V. And be it further enacted, That it shall not be lawful for any person under her Highness' obedience, at any time after the said forty days, during her Majesty's life (which God long preserve) to send his or her child or other person being under his or her government into any the parts beyond the seas out of her Highness' obedience, without the special licence of her Majesty or of four of her Highness' Privy Council . . . (except merchants for such only as they shall send over the seas, only about their trade of merchandize, or to serve as mariners, and not otherwise) upon pain to forfeit for every such their offence the sum of £100.

VIII. Provided also, That this Act shall not in any wise extend to any such Jesuit . . . or ecclesiastical person as is before mentioned, as shall at any time within the said forty days or within three days after that he shall hereafter come into this realm . . . submit himself to some archbishop or bishop of this realm or to some justice of peace within the county where he shall arrive or land, and do thereupon truly and sincerely . . . take the said oath set forth in anno primo,

and by writing under his hand confess and acknowledge and from thenceforth continue his due obedience unto her Highness' laws, statutes and ordinances . .. provided in causes of religion.

XI. And be it also further enacted, That every person being subject of this realm, which after the said forty days shall know that any such Jesuit . . . or other priest above-said shall be within this realm . . . contrary to the true meaning of this Act, and shall not discover the same unto some justice of peace or other higher officer within twelve days next after his said knowledge . . ., That every such offender shall make fine and be imprisoned at the Queen's pleasure . . .

XIII. And be it also enacted . . . That if any person so submitting himself as aforesaid do, at any time within the space of ten years after such submission made, come within ten miles of such place where her Majesty shall be, without especial licence from her Majesty in that behalf . . . such person shall take no benefit of the said submission, but that the said submission shall be void . . .

27 Eliz. Cap. XIII.

An Act for the following of Hue and Cry.

I. Whereas by two ancient statutes [Stat. Wint. 13 E. I. (2) 1; 28 E. III. 11], it was for the better repressing of robberies and felonies among other things enacted that if the country do not answer for the bodies of such malefactors . . . the people dwelling in the country shall be answerable for the robberies done . . ., so that the whole hundred where the robberies shall be done . . . shall answer the robberies done . . .; forasmuch as the said parts of the said several statutes, being of late days more commonly put in execution than heretofore they have been, are found by experience to be very hard and extreme to many of the Queen's Majesty's good subjects, because by the same statutes they do remain charged with the penalties therein contained, notwithstanding their inability to satisfy the same, and though they do as much as in reason might be required in pursuing such malefactors, whereby both large scope of negligence is given to the inhabitants in other hundreds and counties not to prosecute the hue and cry . . ., by reason they are not chargeable for any

portion of the goods robbed . . .; and also great encouragement is likewise given unto the offenders to commit daily more felonies and robberies, as seeing it in manner impossible for the inhabitants of the said hundred and franchise wherein the robbery is committed to apprehend them without the aid of the other hundreds and counties adjoining; and for that also the party robbed, having remedy by the aforesaid statutes for the recovering of his goods robbed and damages against the inhabitants of the hundred wherein the robbery was committed, is many times negligent in prosecuting the said malefactors: our Sovereign Lady the Queen's Majesty . . . doth for remedy hereof, with the consent of the Lords [&c.] . . . enact that the inhabitants of any such hundred . . . wherein negligence . . . after hue and cry made shall happen to be . . . shall answer and satisfy the one moiety of all such sums of money and damages as shall by force of the said statutes be recovered or had against or of the said hundred in which any robbery or felony shall be committed . . .

VII. Provided also, That no person robbed shall take any benefit by virtue of any the said former statutes, to charge any hundred where any robbery shall be committed, except he shall commence his suit or action within one year next after such robbery so to be committed.

VIII. And be it further enacted, That no hue or cry or pursuit . . . shall be taken to be a lawful hue and cry or pursuit . . . except the same be made by horsemen and footmen . . .

IX. And be it further also enacted, That no person . . . shall . . . take any benefit by virtue of the said statutes, except the said person shall, with as much convenient speed as may be, give notice . . . unto some of the inhabitants of some town, village or hamlet near unto the place where any such robbery shall be committed; nor shall bring any action by virtue of any the statutes aforesaid, except he shall first within twenty days next before such action to be brought, be examined upon his corporal oath . . . whether he know the parties that committed the said robbery; and if upon such examination it be confessed that he know the parties . . . that then he . . . shall, before the said action be commenced, enter into sufficient bond by recognisance . . . effectually to prosecute the same persons so

known to have committed the said robbery . . . according to the due course of the laws of this realm.

Sixth Parliament.

Oct. 29, 1586—March 23, 1587.

28 & 29 Eliz. Cap. VI.

An Act for the more speedy and due execution of certain branches of the statute*[1] *made in the twenty-third year of the Queen's Majesty's reign, intituled, An Act to retain the Queen's Majesty's subjects in their due obedience.

I. For avoiding of all frauds and delays heretofore practised or hereafter to be put in ure, to the hindrance of the due and speedy execution of the statute made . . . in the twenty-third year of the reign of our most gracious Sovereign Lady the Queen's Majesty, intituled [as above] . . .

IV. Be it also enacted, That every such offender in not repairing to divine service . . . as hereafter shall fortune to be thereof once convicted, shall . . . pay into the . . . Exchequer after the rate of £20 for every month which shall be contained in the indictment whereupon such conviction shall be; and shall also for every month after such conviction, without any other indictment or conviction, pay into the . . . Exchequer aforesaid, at two times in the year, that is to say, in every Easter Term and Michaelmas Term, as much as then shall remain unpaid, after the rate of £20 for every month after such conviction and if default shall be made in any part of any payment aforesaid. . . . that then the Queen's Majesty shall and may, by process out of the said Exchequer, seize and enjoy all the goods and two parts . . . of all the lands, tenements [&c.] of such offender . . ., leaving the third part only of the same lands, tenements [&c.] for the maintenance of the same offender, his wife, children and family . . .

[1] 23 Eliz. 1.

Seventh Parliament.

Feb. 4—March 29, 1589.

(No Acts printed here.)

Eighth Parliament.

Feb. 19—April 10, 1593.

35 Eliz. Cap. I.

An Act to retain the Queen's subjects in obedience.

For the preventing and avoiding of such great inconveniences and perils as might happen and grow by the wicked and dangerous practices of seditious sectaries and disloyal persons; be it enacted . . . That if any person above the age of sixteen years, which shall obstinately refuse to repair to some church, chapel or usual place of common prayer, to hear divine service established by her Majesty's laws and statutes in that behalf made, and shall forbear to do the same by the space of a month next after without lawful cause, shall, at any time after forty days next after the end of this session of parliament, by printing, writing or express words or speeches . . . go about to persuade any of her Majesty's subjects . . . to deny . . . her Majesty's power and authority in causes ecclesiastical . . .; or to that end shall . . . persuade any other person whatsoever to abstain from coming to church to hear divine service or to receive the Communion according to her Majesty's laws and statutes aforesaid, or to be present at any unlawful assemblies, conventicles or meetings under pretence of any exercise of religion, contrary to her Majesty's said laws and statutes; or if any person which shall obstinately refuse to repair to some church [&c.], and shall forbear by the space of a month to hear divine service, as is aforesaid, shall after the said forty days . . . be present at any such assemblies, conventicles or meetings . . . contrary to the laws and statutes of this realm . . .: That then every such person . . ., being thereof lawfully convicted, shall

be committed to prison, there to remain without bail or main-prize, until they shall conform and yield themselves to come to some church [&c.] and hear divine service, according to her Majesty's laws and statutes aforesaid, and to make such open submission and declaration of their said conformity as hereafter in this Act is appointed.

II. Provided always . . . That if any such person which shall offend against this Act as is aforesaid shall not within three months next after they shall be convicted of their said offence, conform themselves to the obedience of the laws and statutes of this realm, in coming to the church to hear divine service, and in making such public confession and submission as hereafter in this Act is appointed, being thereunto required by the bishop of the diocese or any justice of the peace of the county where the same person shall happen to be or by the minister or curate of the parish; that in every such case every such offender, being thereunto warned or required by any justice of the peace of the same county where such offender shall then be, shall upon his corporal oath before the justices of the peace in the open quarter sessions of the same county or at the assizes and gaol-delivery of the same county before the justices of the same assizes and gaol-delivery abjure this realm of England and all other the Queen's Majesty's dominions for ever, unless her Majesty shall license the party to return. . . .; and if any such offender, which by the tenor of this Act is to be abjured, shall refuse to make such abjuration, or after such abjuration made shall not go to such haven and within such time as is before appointed and from thence depart out of this realm according to this present Act, or after such his departure shall return into any her Majesty's dominions without her Majesty's special licence in that behalf first obtained, that then in every such case the person so offending shall be adjudged a felon and shall suffer as in case of felony, without benefit of clergy.

III. And furthermore be it enacted, That if any person that shall at any time hereafter offend against this Act shall, before he be so warned or required to make abjuration according to the tenor of this Act, repair to some parish church on some Sunday or other festival day, and then and there hear divine service, and at service-time, before the sermon or reading of

the Gospel, make public and open submission and declaration of his conformity to her Majesty's laws and statutes, as hereafter in this Act is appointed; that then the same offender shall thereupon be clearly discharged of the penalties imposed by this Act for any of the offences aforesaid: the same submission to be made as hereafter followeth, that is to say:

I A. B. do humbly confess and acknowledge that I have grievously offended God in contemning her Majesty's godly and lawful government and authority, by absenting myself from church and from hearing divine service, contrary to the godly laws and statutes of this realm, and in using and frequenting disordered and unlawful conventicles and assemblies under pretence and colour of exercise of religion; and I am heartily sorry for the same, and do acknowledge and testify in my conscience, that no other person hath or ought to have any power or authority over her Majesty; and I do promise and protest, without any dissimulation or any colour or means of any dispensation, that from henceforth I will from time to time obey and perform her Majesty's laws and statutes, in repairing to the church and hearing divine service, and do my uttermost endeavour to maintain and defend the same:

And that every minister or curate of every parish where such submission . . . shall hereafter be so made . . . shall presently enter the same into a book . . . and . . . shall certify the same in writing to the bishop of the said diocese.

V. And for that every person having house and family is in duty bound to have special regard of the good government and ordering of the same, be it enacted, That if any person shall at any time hereafter relieve, maintain, retain or keep in his house or otherwise any person which shall obstinately refuse to come to some church [&c.] to hear divine service . . . that then every person which shall so relieve [&c.] any such person offending as aforesaid, after notice thereof to him given by the ordinary of the diocese or any justice of assizes of the circuit or any justice of peace of the county or the minister, curate or churchwardens of the parish where such person shall then be, shall forfeit to the Queen's Majesty for every person so relieved [&c.] . . . as aforesaid, £10 for every month that he shall so relieve [&c.] any such person so offending.

VI. Provided nevertheless, That this Act shall not in any wise extend to punish or impeach any person for relieving [&c.] his wife, father, mother, child, ward, brother or sister, or his wife's father or mother, not having any certain place of habitation of their own, or the husbands or wives of any of them . . .

X. Provided also, That every person that shall abjure by force of this Act, or refuse to abjure being thereunto required as aforesaid, shall forfeit to her Majesty all his goods and chattels for ever; and shall further lose all his lands [&c.] during the life only of such offender, and no longer . . .; but that the heir of every such offender . . . may after the death of every [such] offender enjoy the lands [&c.] of such offender . . .; and this Act to continue no longer than to the end of the next session of Parliament[1].

35 Eliz. Cap. II.

An Act against Popish Recusants.

I. For the better discovering and avoiding of such traiterous and most dangerous conspiracies and attempts, as are daily devised and practised against our most gracious Sovereign Lady the Queen's Majesty and the happy estate of this Commonweal by sundry wicked and seditious persons, who terming themselves Catholics and being indeed spies and intelligencers not only for her Majesty's foreign enemies but also for rebellious and traiterous subjects born within her Highness' dominions, and hiding their most detestable and devilish purposes under a false pretext of religion and conscience, do secretly wander and shift from place to place within this realm, to corrupt and seduce her Majesty's subjects, and to stir them to sedition and rebellion: Be it enacted . . . That every person above the age of sixteen years, born within any the Queen's Majesty's dominions or made denizen, being a Popish recusant and before the end of this session of Parliament convicted for not repairing to some church, chapel or usual place of common prayer to hear divine service there . . . and having any certain place of abode within this realm, shall within forty days next after the end of this session of Parliament (if they be within this realm, and not restrained [by various specified hindrances]

[1] Continued by 39 Eliz. 18; 43 Eliz. 9; 1 Jac. I. 25; 21 Jac. I. 28.

. . .) repair to their place of dwelling where they usually heretofore made their common abode, and shall not any time after remove above five miles from thence . . ., upon pain that every person that shall offend against the tenor of this Act in anything before-mentioned shall forfeit all his goods and chattels, and shall also forfeit to the Queen's Majesty all [his] lands [&c.] during the life of the same offender.

II. And be it also enacted, That every person above the age of sixteen years, born within any her Majesty's dominions, not having any certain place of abode within this realm, and being a Popish recusant, not usually repairing to some church [&c.], shall within forty days next after the end of this session of Parliament if they be then within the realm and not restrained [as above] repair to the place where such person was born, or where the father or mother of such person shall then be dwelling, and shall not at any time after remove above five miles from thence, upon pain [as above].

IV. [Recusants to notify their place of abode.]

V. [Recusants not having lands or goods to a certain amount, transgressing this Act, to abjure the realm.]

VI. And be it further enacted, That if any person which shall be suspected to be a Jesuit, seminary or massing priest, being examined by any person having lawful authority in that behalf to examine such person which shall be so suspected, shall refuse to answer directly and truly whether he be a Jesuit or [&c.] as is aforesaid, every such person so refusing to answer shall . . . be committed to prison by such as shall examine him . . . and thereupon shall remain in prison without bail or mainprize, until he shall make direct and true answer to the said questions whereupon he shall be so examined . . .

Ninth Parliament.

Oct. 24, 1597—Feb. 9, 1598.

39 & 40 Eliz. Cap. I.

An Act against the decaying of towns and houses of husbandry.

I. Where a good part of the strength of this realm consisteth in the number of good and able subjects, and whereas the

decays of towns and habitations have been by the ancient laws of this realm esteemed an high offence, and where of late years more than in times past there have sundry towns, parishes and houses of husbandry been destroyed and become desolate, by means whereof a great number of poor people are become wanderers, idle and loose, which is the cause of infinite inconveniences: be it therefore enacted . . .

II. . . . That every house that now hath or heretofore hath had twenty acres of arable land, meadow and pasture, or more thereunto belonging, and so occupied . . . by the space of three years together, at any time since the beginning of the Queen's Majesty's reign that now is, and which is not or hath not been the castle or dwelling-house of any nobleman or gentleman, nor the chief mansion house of any manor, is and shall be adjudged a house of husbandry for ever . . .

III. And be it also enacted, if any person or persons, bodies politic or corporate at any time since the beginning of her said Majesty's reign, or before seven years now last past, have . . . suffered to be decayed or wasted any such houses of husbandry, that in every such case the offender shall build or repair . . . upon some convenient part of the sites . . . the one half in number of such houses so decayed or wasted, if the offender now hath or . . . shall have in his use or occupation so much of the lands which belonged to the same houses as will suffice to lay thereof forty acres of arable land, meadow and pasture to every of the same houses . . ., and shall then also put to every of the same houses forty acres of the same lands at the least . . .: and if any of the same wastings or decayings have happened within seven years, the offenders having . . . in their own use or occupation so much of the lands which belonged to the same houses . . . as can supply every of the same houses, which had before belonging unto it under forty acres, with twenty acres of arable [&c.], and every such of the same houses which before had forty acres or above belonging unto it, with forty acres of arable [&c.], shall build or repair upon some convenient part of the sites . . . the whole number of the houses so decayed . . .

XI. And be it further enacted, That the justices of assizes shall have full power to inquire of, hear and determine all the said defaults and offences . . .

XII. . . . This Act to endure but to the end of the next session of Parliament[1].

39 & 40 Eliz. Cap. II.

An Act for the maintenance of husbandry and tillage.

I. Whereas the strength and flourishing estate of this kingdom . . . is greatly upheld and advanced by the maintenance of the plough and tillage, being the occasion of the increase and multiplying of people both for service in the wars and in times of peace, being also a principal mean that people are set on work and thereby withdrawn from idleness, drunkenness, unlawful games and all other lewd practices . . .; and whereas by the same means . . . the greater part of the subjects are preserved from extreme poverty . . . and the wealth of the realm is kept dispersed and distributed in many hands, where it is more ready to answer all necessary charges, for the service of the realm; and whereas also the said husbandry and tillage is a cause that the realm doth more stand upon itself, without depending upon foreign countries either for bringing in of corn in time of scarcity, or for vent and utterance of our own commodities being in over great abundance; and whereas from the twenty-seventh year of King Henry the Eighth until the thirty-fifth year of her Majesty's most happy reign there was always in force some law which did ordain a conversion and continuance of a certain quantity and proportion of land in tillage not to be altered; and that in the last Parliament . . ., partly by reason of the great plenty and cheapness of grain . . . and partly by reason of the imperfection and obscurity of the law made in that case, the same was discontinued; since which time there have grown many more depopulations by turning tillage into pasture, than at any time for the like number of years heretofore: Be it enacted . . . That whereas any lands since the seventeenth of November in the first year of her Majesty's reign have been converted to sheep-pastures or to the fatting or grazing of cattle, the same lands having been tillable lands . . . by the space of twelve years together at the least next before such conversion . . ., all such lands shall before the first day

[1] Continued by 43 Eliz. 9; 1 Jac. I. 25.

of May, 1599, be restored to tillage . . . and so shall be continued for ever.

II. And be it further enacted, That all lands which now are used in tillage, having been tillable lands . . . by the space of twelve years together at the least . . . , shall not be converted to any sheep-pasture or to the grazing or fatting of cattle . . . but shall . . . continue to be used in tillage for corn and grain and not for woad.

IX. And be it further enacted, That the justices of assize or justices of the peace in every county at the assizes or quarter or general sessions shall have full power to inquire, hear and determine all the defaults and offences committed contrary to this Act . . .

XV. This Act to endure to the end of the next session of Parliament [1].

39 & 40 Eliz. Cap. III.

(An Act for the relief of the Poor.)

I. Be it enacted, That the churchwardens of every parish and four substantial householders there being subsidy men, or (for want of subsidy men) four other substantial householders of the said parish, who shall be nominated yearly in Easter week under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish, shall be called overseers of the poor of the same parish; and they . . . shall take order from time to time with the consent of two or more such justices of peace for setting to work of the children of all such [*sic*] whose parents shall not by the said persons be thought able to keep and maintain their children, and also all such persons, married or unmarried, as, having no means to maintain them, use no ordinary and daily trade of life to get their living by; and also to raise . . . by taxation of every inhabitant and every occupier of lands in the said parish . . . a convenient stock of flax, hemp, wool, thread, iron and other stuff to set the poor on work, and also competent sums of money for the necessary relief of the lame, impotent, old, blind and such other among them being poor and not able to work, and also for the putting out

[1] Continued by 43 Eliz. 9; 1 Jac. I. 25.

of such children to be apprentices . . . and to do all other things . . . concerning the premises as to them shall seem convenient: which said churchwardens and overseers so to be nominated . . . shall meet together at the least once every month in the church of the said parish, upon the Sunday in the afternoon after divine service, there to consider of some good course to be taken . . . in the premises; and shall within four days after the end of their year, and after other overseers nominated as aforesaid, make and yield up to such two justices of peace a true and perfect account of all sums of money by them received, or rated and cessed and not received, and also of all such stock . . . and of all other things concerning their said office, and such sums of money as shall be in their hands shall pay and deliver over to the said churchwardens and overseers newly nominated and appointed as aforesaid; upon pain that every one of them absenting themselves without lawful cause as aforesaid from such monthly meeting or being negligent in their office . . . to forfeit for every such default 20*s.*

II. And be it also enacted, That if the said justices of peace do perceive that the inhabitants of any parish are not able to levy among themselves sufficient sums of money for the purposes aforesaid, that then the said justices shall tax . . . any other of other parishes . . . within the hundred where the said parish is, to pay such sums of money . . . as the said justices shall think fit, according to the intent of this law; and if the said hundred shall not be thought to the said justices able to relieve the said several parishes . . . then the justices of peace at their general quarter sessions shall rate and assess as aforesaid any other of other parishes . . . within the said county for the purposes aforesaid as in their discretion shall seem fit.

III. And that it shall be lawful for the said churchwardens and overseers or any of them by warrant from any such two justices of peace to levy as well the said sums of money of every one that shall refuse to contribute . . . by distress and sale of the offender's goods, as the sums of money or stock which shall be behind upon any account to be made as aforesaid . . .; and in defect of such distress it shall be lawful for any such two justices of the peace to commit him to prison, there to remain . . . till payment of the said sum or stock; and the said

justices of peace or any one of them to send to the house of correction such as shall not employ themselves to work being appointed thereunto as aforesaid; and also any two such justices of peace to commit to prison every one of the said churchwardens and overseers which shall refuse to account, there to remain . . . till he have made a true account and paid so much as upon the said account shall be remaining in his hands.

IV. And be it further enacted, That it shall be lawful for the said churchwardens and overseers by the assent of any two justices of the peace to bind any such children as aforesaid to be apprentices when they shall see convenient, till such man-child shall come to the age of 24 years and such woman-child to the age of 21 years . . .

V. And to the intent that necessary places of habitation may more conveniently be provided for such poor impotent people, . . . it shall be lawful for the said churchwardens and overseers by the leave of the lord or lords of the manor whereof any waste or common within their parish is parcel . . . to erect in fit and convenient places of habitation in such waste or common, at the general charges of the parish or otherwise of the hundred or county as aforesaid . . . , convenient houses of dwelling for the said impotent poor . . .

VI. Provided that if any persons shall find themselves grieved with any cess or tax or other act done by the said churchwardens and other persons or by the said justices of peace, that then it shall be lawful for the justices of peace at their general quarter sessions to take such order therein as to them shall be thought convenient . . .

VII. And be it further enacted, That the parents or children of every poor . . . and impotent person . . . , being of sufficient ability, shall at their own charges relieve and maintain every such poor person in that manner and according to that rate as by the justices of peace . . . shall be assessed; upon pain that every one of them to forfeit 20*s.* for every month which they shall fail therein.

VIII. [Mayors &c. to execute this Act in corporations.]

IX. [Provision where a parish extends into two counties, &c.]

X. And be it further enacted, That . . . no person shall go

wandering abroad and beg in any place whatsoever, by licence or without, upon pain to be taken and punished as a rogue: provided always that this present Act shall not extend to any poor people which shall ask relief of victuals only in the same parish where such poor people do dwell, so the same be ... according to such order as shall be made by the churchwardens and overseers of the poor of the same parish ...

XI. And be it further enacted, That all penalties and forfeitures before mentioned in this Act shall be employed to the use of the poor of the same parish, and towards a stock and habitation for them and other necessary uses and relief ..

XII. And forasmuch as all begging is forbidden by this present Act ... the justices of peace ... shall rate every parish to such a weekly sum of money as they shall think convenient, so as no parish be rated above the sum of 6*d.* nor under the sum of ½*d.* weekly, and so as the total sum of such taxation of the parishes in every county amount not above the rate of 2*d.* for every parish in the said county; which sums so taxed shall be yearly assessed by the agreement of the parishioners within themselves, or in default thereof by the churchwardens and constables ..., or in default of their agreement by the order of such justice or justices of peace as shall dwell in the same parish ... or in the parts next adjoining: and if any person shall refuse or neglect to pay any such portion of money so taxed, it shall be lawful for the said churchwardens and constables, or in their defaults for the justices of the peace, to levy the same by distress and sale of the goods of the party so refusing or neglecting ...; and in default of such distress it shall be lawful to any justice of that limit to commit such persons to prison ... till he have paid the same.

XIII. And be it also enacted, That the said justices of the peace at their general quarter sessions ... shall set down what competent sum of money shall be sent quarterly out of every county or place corporate for the relief of the poor prisoners of the King's Bench and Marshalsea, and also of such hospitals and almshouses as shall be in the said county ... so as there be sent out of every county yearly 20*s.* at the least to the prisoners of the King's Bench and Marshalsea; which sums, rateably to be assessed upon every parish, the churchwardens of every parish

shall truly collect and pay over to the high constable in whose division such parish shall be situate . . . quarterly . . .; and every such constable . . . shall pay over the same to two such justices of the peace, or to one of them, as shall be by the more part of the justices of peace of the county elected to be treasurers . . .; which treasurers . . . shall continue but for the space of one whole year . . .; which said treasurers . . . shall pay over the same to the Lord Chief Justice of England and Knight Marshal for the time being, equally to be divided to the use aforesaid . . .

XIV. And be it further enacted, That all the surplusage of money which shall be remaining in the said stock of any county shall by . . . the justices of peace in their quarter sessions be ordered and bestowed for the relief of the poor hospitals of that county, and of those that shall sustain losses by fire . . . or other casualties, and to such other charitable purposes . . . as to the said justices of peace shall seem convenient.

XV. [Fine to be levied on any one refusing to act as treasurer or to obey orders.]

XVI. Provided . . . that every soldier being discharged of his service . . . and every seafaring man landing from sea, not having wherewith to relieve himself in his travel homewards, having a testimonial under the hand of some one justice of peace of the place where he was landed or was discharged . . . may, without incurring the penalty of this Act, . . . ask and receive such relief as shall be necessary for his passage . . .

XVII. Provided that this Act shall endure no longer than to the end of the next session of Parliament[1].

39 & 40 Eliz. Cap. IV.

An Act for punishment of rogues, vagabonds and sturdy beggars.

I. For the suppressing of rogues, vagabonds and sturdy beggars, be it enacted, That . . . all statutes heretofore made for the punishment of rogues, vagabonds or sturdy beggars, or for the erection or maintenance of houses of correction, shall, for so much as concerneth the same, be utterly repealed; and that . . . from time to time it shall be lawful for the justices of peace of

[1] This Act is amended and confirmed by 43 & 44 Eliz. 2.

any county or city in this realm or dominion of Wales assembled at any quarter sessions . . . to set down order to erect one or more houses of correction, within their several counties or cities, for the doing whereof and for the providing of stocks of money and all other things necessary for the same, and for raising and governing of the same, and for correction and punishment of offenders thither to be committed, such orders as the same justices shall from time to time make in any their said quarter sessions in that behalf shall be of force and be duly put in execution.

II. Be it further enacted, That all persons calling themselves scholars going about begging, all seafaring men pretending losses [&c.[1]] shall be deemed rogues, vagabonds and sturdy beggars, and shall sustain such punishment as by this Act is in that behalf appointed.

III. And be it enacted, That every person which is by this present Act declared to be a rogue, vagabond or sturdy beggar, which shall be . . . taken begging, vagrant or misordering themselves . . . shall upon their apprehension . . . be stripped naked from the middle upwards and shall be openly whipped until his or her body be bloody, and shall be forthwith sent from parish to parish . . . the next straight way to the parish where he was born, if the same may be known . . . , and if the same be not known, then to the parish where he last dwelt . . . one whole year, there to put himself to labour as a true subject ought to do; or not being known where he was born or last dwelt, then to the parish through which he last passed without punishment; . . . and the party so whipped and not known where he was born or last dwelt by the space of a year, shall by the officers of the said village where he so last passed through without punishment be conveyed to the house of correction . . . or to the common gaol of that county or place, there to remain and be employed in work until he shall be placed in some service, and so to continue by the space of one whole year, or not being able of body, . . . to remain in some almshouse in the same county or place.

IV. Provided, That if any of the said rogues shall appear to be dangerous . . . or such as will not be reformed . . . it shall be

[1] Nearly as in 14 Eliz. 5, § 5.

lawful to the said justices . . . or any two of them . . . to commit that rogue to the house of correction or to the gaol of that county, there to remain until their next quarter sessions . . .; and then such of the same rogues so committed, as by the justices of the peace . . . shall be thought fit not to be delivered, shall . . . be banished out of this realm . . . and at the charge of that county shall be conveyed unto such parts beyond the seas as shall be at any time hereafter for that purpose assigned by the privy council . . . or by any six or more of them, whereof the Lord Chancellor or Lord Keeper of the Great Seal or the Lord Treasurer to be one, or be judged perpetually to the galleys of this realm, as by the same justices shall be thought fit; and if any such rogue so banished as aforesaid shall return again into any part of this realm or dominion of Wales without lawful licence . . . such offence shall be felony, and the party offending therein suffer death as in case of felony . . .

XII. And be it also enacted, That any two or more justices of the peace . . ., whereof one to be of the quorum, shall have full power to hear and determine all causes that shall come in question by reason of this Act.

XIV. Provided, That every seafaring man suffering shipwreck, not having wherewith to relieve himself in his travels homewards, but having a testimonial under the hand of some one justice of the peace of the place where he landed, . . . may without incurring the penalty of this Act . . . ask to receive such relief as shall be necessary for his passage.

XVI. Be it further enacted, That this present Act shall be proclaimed in the next quarter sessions in every county, and in such other market-towns or places as by the justices of the peace . . . shall be appointed. This Act to endure to the end of the first session of the next Parliament [1].

39 & 40 Eliz. Cap. V.

An Act for erecting of hospitals or abiding and working houses for the poor.

I. Whereas at the last session of parliament provision was made [2] as well as for maimed soldiers, by collection in every

[1] Continued by 43 Eliz. 9; amended by 1 Jac. I. 7; and continued by 1 Jac. I. 25; 21 Jac. I. 28.

[2] 35 Eliz. 4.

parish, as for other poor, that it should be lawful for every person, during twenty years next after the said parliament . . ., to give and bequeath in fee-simple, as well to the use of the poor as for the provision or maintenance of any house of correction or abiding-houses, or of any stocks or stores, all or any part of his lands [&c.]; her most excellent Majesty understanding that the said good law hath not taken such effect as was intended, by reason that no person can erect or incorporate any hospital [&c.] but her Majesty or by her Highness' special licence . . ., is of her princely care . . . for the relief of maimed soldiers, mariners and other poor and impotent people pleased that it be enacted . . . and be it enacted, That all persons seised of an estate in fee-simple, their heirs, executors or assigns . . . shall have full power, . . . at any time during the space of twenty years next ensuing, by deed enrolled in the High Court of Chancery, to found and establish one or more hospitals, maisons de dieu, abiding-places or houses of correction . . . to have continuance for ever, and from time to time to place therein such head and members and such number of poor as to him [&c.] shall seem convenient . . .

V. Provided, That no such hospital [&c.] shall be erected, founded or incorporated by force of this Act, unless upon the foundation or erection thereof the same be endowed for ever with lands, tenements or hereditaments of the clear yearly value of £10[1].

Tenth Parliament.

Oct. 27–Dec. 19, 1601.

43 & 44 Eliz. Cap. II.

An Act for the relief of the poor.

I. Be it enacted . . . That the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish or parishes, to be nominated yearly in Easter week or within one month after Easter, under the hand

[1] Revived and made perpetual by 21 Jac. I. 1.

and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish shall lie, shall be called Overseers of the Poor of the same parish; and they . . . shall take order [&c. as in Stat. 39 and 40 Eliz. 4 § 1, down to the words 'to get their living by,' proceeding thus] and also to raise . . . by taxation of every inhabitant, parson, vicar and other, and of every occupier of lands, houses, tithes impropriate or propriations of tithes, coal mines or saleable underwood in the said parish . . . a convenient stock [&c. as in the above-mentioned Act, § 1].

II. [As in the above Act, §§ 2 and 3.]

III. [As in the above Act, § 4, adding, after the words '21 years,' the words 'or the time of her marriage.'

IV. [As in the above Act, § 5, down to the words 'impotent poor,' with the following addition] 'which cottages and places for inmates shall not at any time after be used for any other habitation, but only for impotent and poor of the same parish . . .'

V. [As in the above Act, § 6.]

VI. [As in the above Act, § 7, with the substitution of 'the father and grandfather, and the mother and grandmother' for 'parents.']

VII. [As in the above Act, § 8, with additional permission to every Alderman of the City of London to exercise within his ward the powers conferred by this Act on one or two justices of the peace.]

VIII. [As in the above Act, § 9, with some additional details.]

IX. [Penalty of £5 on justices, &c., failing to nominate overseers [1].]

X. [As in the above Act, § 11.]

XI. [As in the above Act, § 12, omitting the words 'forasmuch as all begging is forbidden by this present Act.']

XII. [As in the above Act, § 13, except that the treasurers may be either justices of the peace or persons rated for subsidy at £5 lands or £10 goods.]

XIII. [As in the above Act, § 14.]

[1] This section is not in the Act of 1593: §§ 10 & 16 of the Act of 1593 are omitted in this Act.

XIV. [As in the above Act, § 15, adding that the fine is to be £3 at least.]

XIX. Provided that this Act shall endure no longer than to the end of the next session of Parliament[1].

43 & 44 Eliz. Cap. XIII.

An Act for the more peaceable government of the parts of Cumberland, Northumberland, Westmoreland, and the Bishopric of Durham.

I. Forasmuch as now of late years very many of her Majesty's subjects, dwelling within the counties of Cumberland, Northumberland, Westmoreland and the Bishopric of Durham, have been ... carried out of the same counties or to some other places within some of the said counties as prisoners, and kept barbarously and cruelly, until they have been redeemed by great ransoms; and where now of late time there have been many incursions, raids, robberies, and burning and spoiling of towns, villages and houses within the said counties, that divers ... within the said counties ... have been enforced to pay a certain rate of money, corn, cattle or other consideration, commonly there called blackmail, unto divers inhabiting near the borders, being men of name and allied with divers in those parts who are commonly known to be great robbers, ... to the end thereby to be by them protected ...; by reason whereof many of the inhabitants ... are much impoverished, and theft and robbery much increased, ... and the service of those borders much weakened and decayed, and divers towns thereabouts much dispeopled and laid waste, and her Majesty's own revenue greatly diminished; ... be it enacted, That whosoever shall at any time hereafter, without good and lawful warrant take any of her Majesty's subjects ... or ... imprison them ... against their wills, to ransom them or to make a prey or spoil of their person or goods, upon deadly feud or otherwise, or whosoever shall be privy ... unto any such taking ..., or whosoever shall take ... or ... give any such money, corn, cattle or other consideration called blackmail ..., or shall wilfully or of malice burn ... any barn or stack of corn or grain ... within any the said counties ..., and shall be ...

[1] This Act is continued by 1 Jac. I. 25; 21 Jac. I. 28.

indicted and lawfully convicted . . . before the justices of assizes [&c.] or justices of peace within any of the said counties at some of their general sessions . . ., shall be taken to be as felons and shall suffer pains of death, without any benefit of clergy, sanctuary or abjuration, and shall forfeit as in case of felony . . .

43 & 44 Eliz. Cap. XVIII.

An Act for the grant of four entire subsidies and eight fifteens and tenths granted by the temporality.

I. Most excellent and most gracious Sovereign, . . . forasmuch as in this time of our advised and mature deliberation we have sufficiently perceived how great and inestimable charges your Majesty hath sustained many years, in seeking (by way of prevention) to hinder all such foreign attempts as . . . might long since have proved perilous to the whole estate of this Commonwealth; and where it is apparent to all the world that if your Majesty had not exhausted the greatest portion of your private treasures, besides all other means derived from our dutiful affections, as well in making timely provision of all things necessary for your navy and army royal, as in maintaining and using the same at times convenient, that we should long before this day have been exposed to the danger of many sudden and dangerous attempts of our enemies and failed in all those happy successes which have accompanied your royal actions taken in hand for the defence of this estate . . .; forasmuch as we do seriously consider that your Majesty and we your faithful and obedient subjects are but one body politic, and that your Highness is the head and we the members, and that no good or felicity, peril or adversity can come to the one but the other shall partake thereof . . .; being fully resolved to leave both lands, goods and whatsoever else that is dearest unto us, yea, and this mortal life, rather than we would suffer your royal estate to be in any part diminished, or the imperial crown of this realm deprived of any honour, title, right or interest thereunto belonging . . ., we have thought meet not only to make it one of our first works to consult of that matter, which in other sessions of parliament hath usually succeeded many other acts and consultations, but so to enlarge and improve the measure

of this oblation which we shall offer to your royal person, as it may give your Majesty an assured testimony of our internal zeals and duties . . . in a manner far exceeding any former precedent, because no age either hath or can produce the like precedent of so much happiness under any prince's reign, nor of so continual gracious care for our preservation as your Majesty hath showed in all your actions, having never stuck to hazard or rather neglect for our preservation any part of those worldly blessings wherewith Almighty God hath so plentifully endowed you in this time of your most happy government: and therefore we do with all duty and humble affections that heart can conceive or tongue can utter present to your sacred Majesty four entire subsidies and eight fifteens and tenths toward your Highness' great charges for our defence . . .

II.—PARLIAMENTARY PROCEEDINGS.

I. General.

1. *Petition of the House of Commons for the Queen's marriage and the succession, 28 January, 1563.*

. . . We most humble subjects, knowing the preservation of ourselves, and all our posterity, to depend upon the safety of your Majesty's most royal person, have most carefully and diligently considered, how the want of heirs of your body and certain limitation of succession after you is most perilous to your Highness, whom God long preserve amongst us. We have been admonished of the great malice of your foreign enemies, which even in your lifetime have sought to transfer the dignity and right of your crown to a stranger; we have noted their daily most dangerous practices against your life and reign; we have heard of some subjects of this land, most unnaturally confederated with your enemies, to attempt the destruction of your Majesty, and us all that live by you; we fear a faction of heretics in your realm, contentious and malicious Papists, lest they most unnaturally against their country, most madly against their own safety, and most treacherously against your

Highness, not only hope for the woful day of your death, but also lay in wait to advance some title, under which they may revive their late unspeakable cruelty, to the destruction of goods, possessions and bodies, and thraldom of the souls and consciences of your faithful and Christian subjects; we see nothing to withstand their desire, but your only life; their unkindness and cruelty we have tasted; we fear much to what attempt the hope of such opportunity (nothing withstanding them but your life) will move them; we find how necessary it is for your preservation, that there be more bounds set between your Majesty's life and their desire; we see, on the other side, how there can be no such danger to your Majesty by ambition of any apparent heir established by your benefit and advancement, for want of issue of your Majesty's royal body, as you are now subject unto, by reason of their desire and hope; we know not how many pretend titles and trust to succeed you, whose secret desire we so much more fear, because neither their number, force, nor likelihood of disposition is known unto us; and so we can the less beware of them for your preservation . . . So, as your Majesty of your singular care for us, and our posterity, hath at this time assembled us, for establishing this great and only stay of our safeties: I[1], in the name of all your most loving, natural and obedient subjects, do present unto you our most lowly suit and petition, That . . . it may please your most excellent Majesty for our sakes, for our preservation and comforts and at our most humble suit, to take to yourself some honourable husband, whom it shall please you to join unto in marriage; whom, whatsoever he be that your Majesty shall choose, we protest and promise, with all humility and reverence, to honour, love and serve, as to our most bounded duty shall appertain . . . And where by the statute[2] which your most noble father assented unto . . . for the limitation of the succession of the crown of this realm, your Majesty is the last expressly named within the body of the said Act; and for that your subjects cannot judge, nor do know anything of the form or validity of any further limitations, left incertain for want of heirs of your body, whereby some great dangerous doubt remaineth in their hearts, to their great grief, peril and unquietness: it may also

[1] The Speaker (Williams). [2] 35 H. VIII. 1.

please your Majesty by proclamation of certainty already provided, if any such be, or else by limitations of certainty, if none be, to provide a most gracious remedy in this great necessity ... And your subjects, on their behalfs, for your Majesty's further assurance, whereupon their own preservation wholly dependeth, shall employ their whole endeavours and wits and power, to renew, devise and establish the most strong and beneficial acts and laws of preservation and surety of your Majesty and of your issue, in the imperial crown of this realm; and the most penal, sharp and terrible statutes, to all that shall but once practise and attempt or conceive against your safety ...

The Queen's answer to the above petition, 10 *April*, 1563.

... Since there can be no duer debt than princes' words, which I would observe, therefore I answer to the same. Thus it is; the two petitions which you made unto me do contain two things, my Marriage, and Succession after me. For the first, if I had let slip too much time, or if my strength had been decayed, you might the better have spoke therein; or if any think I never meant to try that life, they be deceived; but if I may hereafter bend my mind thereunto, the rather for fulfilling your request, I shall be therewith very well content. For the second, the greatness thereof maketh me to say and pray, that I may linger here in this vale of misery for your comfort, wherein I have witness of my study and travail for your surety: and I cannot, with 'nunc dimittis,' end my life, without I see some foundation of your surety after my grave-stone. *D'Ewes' Journals*, pp. 75-81.

2. *Petition of Parliament touching Mary, Queen of Scots*, 22 *November*, 1586.

May it please your most excellent Majesty, We, your humble, loving and faithful subjects, the Lords and Commons in this present parliament assembled, having of long time, to our intolerable grief, seen by how manifold, most dangerous and execrable practices, Mary ... commonly called the Queen of Scots, hath compassed the destruction of your Majesty's sacred and most royal person ..., and thereby not only to

bereave us of the sincere and true religion of Almighty God, bringing us and this noble crown back again into the thraldom of the Romish tyranny, but also utterly to ruinate and overthrow the happy state and commonweal of this realm: and seeing also what insolent boldness is grown in the heart of the same Queen, through your Majesty's former exceeding favours towards her; and thereupon weighing, with heavy and sorrowful hearts, in what continual peril of suchlike desperate conspiracies and practices your Majesty's most royal and sacred person and life (more dear unto us than our own) is and shall be still, without any possible means to prevent it, so long as the said Scottish Queen shall be suffered to continue, and shall not receive that due punishment which, by justice and the laws of this your realm, she hath so often and so many ways, for her most wicked and detestable offences, deserved: therefore... We do most humbly beseech your most excellent Majesty that, as well in respect of the continuance of the true religion now professed amongst us and of the safety of your most royal person and estate, as in regard of the preservation and defence of us your most loving, dutiful and faithful subjects and the whole commonweal of this realm, it may please your Highness to take speedy order, that declaration of the same sentence and judgment be made and published by proclamation, and that thereupon direction be given for further proceedings against the said Scottish Queen, according to the effect and true meaning of the said statute[1]: because, upon advised and great consultation, we cannot find that there is any possible means to provide for your Majesty's safety, but by the just and speedy execution of the said Queen: . . . and if the same be not put in present execution, we your most loving and dutiful subjects, shall thereby (so far as man's reason can reach) be brought into utter despair of the continuance amongst us of the true religion of Almighty God, and of your Majesty's life, and the safety of all your faithful subjects, and the good estate of this most flourishing commonweal.

[1] Stat. 27 Eliz. 1. § 1.

The Queen's answer, 24 November, 1586.

That her Highness, moved with some commiseration for the Scottish Queen, in respect of her former dignity and great fortunes in her younger years, her nearness of kindred to her Majesty and also of her sex, could be well pleased to forbear the taking of her blood, if, by any other means to be devised by her Highness' Great Council of this realm, the safety of her Majesty's person and government might be preserved, without danger of ruin and destruction, and else not; therein leaving them all nevertheless to their own free liberty and dispositions of proceeding otherwise at their choice.

To which the Houses made reply.

That having often conferred and debated on that question, according to her Highness' commandment, they could find no other way than was set down in their petition.

The Queen's second answer.

If I should say unto you that I mean not to grant your petition, by my faith I should say unto you more than perhaps I mean. And if I should say unto you I mean to grant your petition, I should then tell you more than is fit for you to know. And thus I must deliver you an answer answerless.

D'Ewes' Journals, pp. 380–402.

3. *Debate in Parliament on a Bill against Monopolies, and the Queen's message touching the same, November, 1601.*

[Mr. Laurence Hide having on 20 November, 1601, brought in a Bill entitled 'An Act for the explanation of the Common Law in certain cases of Letters Patents,']

Mr. Francis Bacon said: . . . I confess the bill, as it is, is in few words, but yet ponderous and weighty. For the prerogative royal of the prince, for my own part I ever allowed of it, and it is such as I hope shall never be discussed. The Queen, as she is our sovereign, hath both an enlarging and restraining liberty of her prerogative; that is, she hath power by her patents to set at liberty things restrained by statute law or otherwise; and, by her prerogative she may restrain

things that are at liberty. For the first, she may grant *non obstantes* contrary to the penal laws, which truly, in my own conscience, are as hateful to the subject as monopolies. For the second, if any man out of his own wit, industry or endeavour find out anything beneficial for the commonwealth . . . her Majesty is pleased perhaps to grant him a privilege to use the same only by himself or his deputies for a certain time: this is one kind of monopoly. Sometimes there is a glut of things when they be in excessive quantities, as of corn, and perhaps her Majesty gives licence to one man of transportation: this is another kind of monopoly. Sometimes there is a scarcity or small quantity: and the like is granted also. These and divers of this nature have been in trial, both in the Common Pleas, upon actions of trespass, (where, if the judges do find the privilege good for the commonwealth, they then will allow it, otherwise disallow it), and also I know that her Majesty herself hath given commandment to her attorney-general, to bring divers of them, since the last parliament, to trial in the Exchequer; since which time at least fifteen or sixteen, to my knowledge, have been repealed; some upon her Majesty's own express command, upon complaint made unto her by petition, and some by *quo warranto* in the exchequer. But, Mr Speaker, (said he, pointing to the bill) this is no stranger in this place, but a stranger in this vestment: the use hath been ever by petition to humble ourselves unto her Majesty and by petition to desire to have our grievances redressed, especially when the remedy toucheth her so nigh in prerogative. All cannot be done at once, neither was it possible since the last parliament to repeal all. If her Majesty make a patent or a monopoly unto any of her servants, that we must go and cry out against: but if she grant it to a number of burgesses or a corporation, that must stand, and that forsooth is no monopoly. I say, and I say again, that we ought not to deal or meddle with or judge of her Majesty's prerogative . . .

Dr. Bennet. He that will go about to debate her Majesty's prerogative royal, must walk warily. In respect of a grievance out of that city for which I serve, I think myself bound to speak that now which I had not intended to speak before; I mean a monopoly of salt. It is an old proverb, 'Sal sapit

omnia'; fire and water are not more necessary. But for other monopolies of cards (at which word Sir Walter Rawleigh blushed) dice, starch, &c., they are, because monopolies, I must confess, very hateful, though not so hurtful. I know there is a great difference in them; and I think, if the abuse in this monopoly of salt were particularized, this would walk in the fore-rank . . .

Mr Lawrence Hide. I confess, Mr Speaker, that I owe duty to God and loyalty to my prince. And for the bill itself I made it, and I think I understand it: and far be it from this heart of mine to think, this tongue to speak, or this hand to write anything, either in prejudice or derogation of her Majesty's prerogative royal and the state . . . And, Mr Speaker, as I think it is no derogation to the omnipotency of God, to say he can do no ill, so I think, it is no derogation to the person or majesty of the Queen, to say so . . . Yet, because two eyes may see more than one, I humbly pray that there may be a commitment had of this bill, lest something may be therein which may prove the bane and overthrow thereof at the time of the passing . . .

Mr Francis Moore. Mr Speaker, I know the Queen's prerogative is a thing curious to be dealt withal, yet all grievances are not comparable. I cannot utter with my tongue or conceive with my heart the great grievances that the town and country, for which I serve, suffer by some of these monopolies. It bringeth the general profit into a private hand, and the end of all is beggary and bondage to the subjects. We have a law for the true and faithful currying of leather: there is a patent that sets all at liberty, notwithstanding that statute. And to what purpose is it to do anything by act of parliament, when the Queen will undo the same by her prerogative? Out of the spirit of humility, Mr Speaker, I do speak it: there is no act of hers that hath been or is more derogatory to her own Majesty, or more odious to the subject, or more dangerous to the commonwealth than the granting of these monopolies . . .

Sir George Moore. I make no question but that this bill offereth good matter, and I do wish that the matter may in some sort be prosecuted, and the bill rejected . . . We know the power of her Majesty cannot be restrained by any

Act; why, therefore, should we thus talk? Admit we should make this statute with a *non obstante*, yet the Queen may grant a patent with a *non obstante*, to cross this *non obstante*. I think, therefore, that it agreeth more with the wisdom and gravity of this house to proceed with all humbleness by petition than bill.

Mr Wingfield. I would but put the house in mind of the proceedings we had in this matter the last parliament, in the end whereof our Speaker moved her Majesty by way of petition, that the grief touching these monopolies might be respected and the grievance coming of them might be redressed. Her Majesty answered by the Lord Keeper: that she would take care of these monopolies, and our griefs should be redressed; if not, she would give us free liberty to proceed in making a law the next parliament. The wound, Mr Speaker, is still bleeding, and we grieve under the sore and are without remedy. It was my hap the last parliament to encounter with the word Prerogative; but as then, so now I do it with all humility, and wish all happiness both unto it and her Majesty. I am indifferent touching our proceedings, whether by bill or petition, because that therein our grievance may follow, whereby her Majesty may specially understand them . . .

[The following passages occurred in Committee, November 21.]

Sir Edward Stanhope informed the House of the great abuse by the patentee for salt in his country, that betwixt Michaelmas and St Andrew's tide, where salt was wont (before the patent) to be sold for 16*d.* a bushel, it is now sold for 14*s.* and 15*s.* a bushel: but, after the Lord President had understood thereof, he committed the patentee, who caused it to be sold as before . . . To Lynn there is every year brought at least 3000 weight of salt; and every weight, since this patent, is enhanced 20*s.*; and where the bushel was wont to be 8*d.* it is now 16*d.* And I dare boldly say it, if this patent were called in, there might well be £3000 a year saved in the ports of Lynn, Boston, and Hull. I speak this of white salt.

Mr Francis Bacon. The bill is very injurious and ridiculous; injurious, in that it taketh or rather sweepeth away her Majesty's prerogative; and ridiculous, in that there is a proviso, that this statute shall not extend to grants made to

corporations; that is a gull to sweeten the bill withal; it is only to make fools fond. All men of the law know that a bill which is only expository, to expound the common law, doth enact nothing; neither is any proviso good therein . . . Therefore I think the bill unfit, and our proceedings to be by petition.

Sir Robert Wroth . . . There have been divers patents granted since the last parliament; these are now in being, viz. the patents for currants, iron, powder, cards, horns, ox-shin bones, train-oil, transportation of leather, lists of cloth, ashes, bottles, glasses, bags, shreds of gloves, aniseed, vinegar, sea-coals, steel, aquavitæ, brushes, pots, salt, salt-petre, lead, accedence, oil, calamint stone, oil of blubber, fumathoes, or dried pilchers in the smoke, and divers others.

Upon reading of the patents aforesaid, *Mr Hackwell* of Lincoln's Inn stood up and asked thus: Is not bread there? Bread, quoth another; This voice seems strange, quoth a third. No, quoth Mr Hackwell, but if order be not taken for these, bread will be there before the next parliament.

[On November 23, the debate was renewed.]

Mr Secretary Cecil. If there had not been some mistaking or confusion in the committee, I would not now have spoken. The question was, of the most convenient way to reform these grievances of monopolies: but after disputation, of that labour we have not received the expected fruit . . . This dispute draws two great things in question; first, the prince's power; secondly, the freedom of Englishmen. I am born an Englishman, and a fellow-member of this House; I would desire to live no day, in which I should detract from either. I am servant to the Queen; and before I would speak or give my consent to a case that should debase her prerogative or abridge it, I would wish my tongue cut out of my head. I am sure there were law-makers before there were laws . . . If you stand upon law, and dispute of the prerogative, hark what Bracton saith, 'Prerogativam nostram nemo audeat disputare.' For my own part, I like not these courses should be taken. And you, Mr Speaker, should perform the charge her Majesty gave unto you at the beginning of this parliament not to receive bills of this nature; for her Majesty's ears be open to all grievances, and her hand stretched out to every man's petition. For the matter of access

I like it well, so it be first moved and the way prepared. I had rather all the patents were burnt than her Majesty should lose the hearts of so many subjects as is pretended she will . . .

[On November 25, the Speaker brought the following message to the house.]

It pleased her Majesty to command me to attend upon her yesterday in the afternoon, from whom I am to deliver unto you all her Majesty's most gracious message, sent by my unworthy self . . . It pleased her Majesty to say unto me, That if she had an hundred tongues she could not express our hearty good-wills. And further she said, That as she had ever held our good most dear, so the last day of our or her life should witness it; and that if the least of her subjects were grieved, and herself not touched, she appealed to the throne of Almighty God, how careful she hath been, and will be, to defend her people from all oppressions. She said, That partly by intimation of her council, and partly by divers petitions that have been delivered unto her both going to chapel and also walking abroad, she understood that divers patents, that she had granted, were grievous to her subjects; and that the substitutes of the patentees had used great oppression. But, she said, she never assented to grant anything which was *malum in se*. And if in the abuse of her grant there be anything evil, which she took knowledge there was, she herself would take present order of reformation thereof. I cannot express unto you the apparent indignation of her Majesty towards these abuses. She said her kingly prerogative was tender; and therefore desireth us not to speak or doubt of her careful reformation; for, she said, her commandment given a little before the late troubles (meaning the Earl of Essex's matters) by the unfortunate event of them was not so hindered, but that since that time, even in the midst of her most great and weighty occasions, she thought upon them. And that this should not suffice, but that further order should be taken presently, and not *in futuro* (for that also was another word which I take it her Majesty used), and that some should be presently repealed, some suspended, and none put in execution but such as should first have a trial according to the law for the good of the people. Against the abuses her wrath was so incensed, that she said, that she neither could nor

would suffer such to escape with impunity. So to my unspeakable comfort she hath made me the messenger of this her gracious thankfulness and care.

Townsend's Journals, pp. 230–249.

II. Privileges of Parliament.

1. Customary demand for Privileges.

Speaker Williams' Speech, 1562.

... Further, I am to be a suitor to your Majesty that, when matters of importance shall arise whereupon it shall be necessary to have your Highness' opinion, that then I may have free access unto you for the same; and the like to the Lords of the Upper House.

Secondly, that in repairing from the Nether House to your Majesty or the Lords of the Upper House, to declare their meanings, and I mistaking or uttering the same contrary to their meaning, that then my fault or imbecility in declaring thereof be not prejudicial to the House, but that I may again repair to them, the better to understand their meanings and so they to reform the same.

Thirdly, that the assembly of the Lower House may have frank and free liberties to speak their minds without any controlment, blame, grudge, menaces or displeasure, according to the old ancient order.

Finally, that the old privilege of the House be observed, which is that they and theirs might be at liberty, frank and free, without arrest, molestation, trouble or other damage to their bodies, lands, goods or servants, with all other their liberties, during the time of the said parliament, whereby they may the better attend and do their duty; all which privileges I desire may be enrolled, as at other times it hath been accustomed. *D'Ewes' Journals*, pp. 65–66.

2. Permanent Committee for Privileges.

(a) It is ordered that Mr Comptroller [and 9 others] shall examine such matters of privilege as shall happen in this present session of parliament to come in question, and to make reports

thereof unto this House, for the further order and resolution of this House in every of the same cases as shall appertain.
D'Ewes' Journals, p. 429 (under date 7 Feb. 1589).

(b) Ordered, That all the members of this House being of her Majesty's Privy Council [and 30 others] shall during all this present session of parliament examine and make report of all such cases touching the elections and returns of any the knights, citizens, burgesses and barons of this House, and also all such cases for privilege as in any wise may occur or fall out during all the same session of parliament . . . *D'Ewes' Journals*, p. 471.

3. Freedom of Speech.

(a) *Debate on the Queen's marriage and the succession*, 1566.

November 9, 1556. Mr Vice-Chamberlain declared the Queen's Majesty's express commandment to this House, that they should no further proceed in their suit, but to satisfy themselves with her Highness' promise of marriage . . .

November 11. Paul Wentworth, one of the burgesses, moved whether the Queen's commandment was not against the liberties: whereupon arose divers arguments, continuing from nine of the clock till two after noon . . .

November 12. Mr Speaker, being sent for to attend upon the Queen's Majesty at the court, . . . at his coming after ten of the clock, began to show that he had received a special commandment from her Highness to this House, notwithstanding her first commandment, that there should not be further talk of that matter: and if any person thought himself not satisfied but had further reasons, let him come before the Privy Council, there to show them.

November 25. Mr Speaker, coming from the Queen's Majesty, declared her Highness' pleasure to be that, for her good will to the House, she did revoke her two former commandments, requiring the House no further at this time to proceed in the matter: which revocation was taken of all the House most joyfully with most hearty prayer and thanks for the same.
Commons' Journals, I. 76, 77.

(b) *Speech of the Lord Keeper, 4 April, 1571.*

... Her Majesty, having experience of late of some disorder and certain offences (which though they were not punished yet were they offences still and so must be accounted), therefore said, they should do well to meddle with no matters of state but such as should be propounded unto them, and to occupy themselves with other matters concerning the commonwealth.

D'Ewes' Journals, p. 141.

(c) *Debate on Mr Strickland's inhibition, 20 April, 1571.*

Mr Carleton. A member of the House was detained from them (meaning Mr Strickland), by whose commandment or for what cause he knew not. But forasmuch as he was not now a private man, but to supply the room, person and place of a multitude specially chosen and therefore sent, he thought that neither in regard of the country, which was not to be wronged, nor for the liberty of the house, which was not to be infringed, we should permit him to be detained from us; but, whatsoever the intendment of this offence might be, that he should be sent for to the bar of that House, there to be heard and there to answer.

Sir Francis Knolles. The man that is meant is neither detained nor misused, but on considerations is required to expect the Queen's pleasure upon certain special points: wherein, he said, he durst to assure that the man should neither have cause to dislike or complain, since so much favour was meant unto him as he reasonably could wish. He further said, that he was in no sort stayed for any word or speech by him in that place offered, but for the exhibiting of a bill into the House against the prerogative of the Queen, which was not to be tolerated.

Mr Yelverton. First, he said, the precedent was perilous, and though in this happy time of lenity, among so good and honourable personages, under so gracious a prince, nothing of extremity or injury was to be feared; yet the times might be altered, and what now is permitted hereafter might be construed as of duty and enforced even on this ground of the present permission ... He showed, it was fit for princes to have their prerogatives; but yet the same to be straitened within

reasonable limits. The prince, he showed, could not of herself make laws, neither might she by the same reason break laws[1].

D'Ewes' Journals, pp. 175, 176.

(d) *Message from the Queen, 22 May, 1572.*

May 22, 1572 ... Upon declaration made unto this House by Mr Speaker from the Queen's Majesty, that her Highness' pleasure is that from henceforth no bills concerning religion shall be preferred or received into this House, unless the same should be first considered or liked by the clergy; and further that her Majesty's pleasure is to see the two last bills read in this House touching Rites and Ceremonies; it is ordered, That the same bills shall be delivered unto her Majesty ...

Commons' Journals, p. 97.

(e) *Speech of Peter Wentworth, 8 Feb., 1576.*

I was never of parliament but the last, and the last session, at both which times I saw the liberty of free speech, the which is the only salve to heal all the sores of this commonwealth, so much and so many ways infringed, and so many abuses offered to this honourable council, as hath much grieved me even of very conscience and love to my prince and state. Wherefore to avoid the like, I do think it expedient to open the commodities that grow to the prince and whole state by free speech used in this place ... Amongst other, Mr Speaker, two things do great hurt in this place, of the which I do mean to speak: the one is a rumour which runneth about the House, and this it is, 'Take heed what you do, the Queen liketh not such a matter: whosoever preferreth it, she will be offended with him; or the contrary, her Majesty liketh of such a matter: whosoever speaketh against it, she will be much offended with him.' The other: sometimes a message is brought into the house, either of commanding or inhibiting, very injurious to the freedom of speech and consultation. I would to God, Mr Speaker, that these two were buried in hell, I mean rumours and messages ...

This grievous rumour, What is it forsooth? Whatsoever

[1] The inhibition on Mr Strickland's attendance was taken off next day, April 21.

thou art that pronouncest it, thou dost pronounce thy own discredit. Why so? for that thou dost what lieth in thee to pronounce the prince to be perjured . . . For the Queen's Majesty is the head of the law, and must of necessity maintain the law; for by the law her Majesty is made justly our Queen, and by it she is most chiefly maintained . . . The King ought not to be under man, but under God and under the law, because the law maketh him a King . . . I pray you mark the reason why my authority[1] saith, 'The King ought to be under the law,' for, saith he, 'He is God's vicegerent upon earth,' that is, his lieutenant to execute and do his will, the which is law or justice; and thereunto was her Majesty sworn at her coronation, as I have heard learned men in this place sundry times affirm; unto the which I doubt not but her Majesty will, for her honour and conscience sake, have special regard, for free speech and conscience in this place are granted by a special law, as that without the which the prince and state cannot be preserved or maintained.

Now the other was a message[2], Mr Speaker, brought the last session into the House that we should not deal in any matters of religion, but first to receive from the bishops. Surely this was a doleful message; for it was as much as to say, 'Sirs, ye shall not deal in God's causes, no, ye shall in no wise seek to advance His glory' . . . Certain it is, Mr Speaker, that none is without fault, no, not our noble Queen, since her Majesty hath committed great fault, yea dangerous faults to herself. Love, even perfect love, void of dissimulation, will not suffer me to hide them to her Majesty's peril, but to utter them to her Majesty's safety: and these they are. It is a dangerous thing in a prince unkindly to abuse his or her nobility and people, and it is a dangerous thing in a prince to oppose or bend herself against her nobility and people, yea against most loving and faithful nobility and people.

. . . I do surely think, before God I speak it, that the bishops were the cause of that doleful message; and I will show you what moveth me so to think. I was, amongst others, the last parliament sent unto the bishop of Canterbury, for the Articles of Religion that then passed this House. He asked us, Why we

[1] Bracton. [2] See above, p. 120 (d).

did put out of the book the Articles for the Homilies, Consecrating of Bishops, and such like? Surely, sir, said I, because we were so occupied in other matters, that we had no time to examine them how they agreed with the Word of God. What, said he, surely you mistook the matter, you will refer yourselves wholly to us therein? No, by the faith I bear to God, said I, we will pass nothing before we understand what it is, for that were but to make you Popes; make you Popes who list, said I, for we will make you none . . .

Thus I have holden you long with my rude speech; the which since it tendeth wholly with pure conscience to seek the advancement of God's glory, our honourable Sovereign's safety, and the sure defence of this noble isle of England, and all by maintaining of the liberties of this honourable council, the fountain from whence all these do spring; my humble and hearty suit unto you all is, to accept my good-will, and that this that I have here spoken out of conscience and great zeal unto my prince and state, may not be buried in the pit of oblivion, and so no good come thereof[1].

D'Ewes' Journals, pp. 236-241.

(f) *Speech of Sir W. Mildmay*, 12 *March*, 1576.

. . . True it is, that nothing can be well concluded in a council where there is not allowed, in debating of causes brought in, deliberation, liberty, and freedom of speech; otherwise, if in consultation men be either interrupted or terrified, so as they cannot nor dare not speak their opinions freely, like as that council cannot but be reputed for a servile council, even so all the proceedings therein shall be rather to satisfy the wills of a few, than to determine that which shall be just and reasonable. But herein we may not forget to put a difference between liberty of speech and licentious speech; for by the one men deliver their opinions freely, and with this caution, that all be spoken, pertinently, modestly, reverently and discreetly; the other contrariwise uttereth all impertinently, rashly, arrogantly and irreverently, without respect of person, time or place: and though freedom of speech hath always

[1] For this speech Mr Wentworth was committed to the Tower, where he remained till 12 March, 1576.

been used in this great council of parliament, and is a thing most necessary to be preserved amongst us; yet the same was never nor ought to be extended so far, as though a man in this House may speak what and of whom he list. The contrary whereof, both in our own days and in the days of our predecessors, by the punishment of such inconsiderate and disorderly speakers, hath appeared. *D'Ewes' Journals*, p. 259.

(g) *Speech of Mr Wentworth*[1], 1 *March*, 1587.

Mr Speaker, forasmuch as such laws as God is to be honoured by, and that also such laws as our noble Sovereign and this worthy realm of England are to be enriched, strengthened and preserved by from all foreign and domestic enemies and traitors, are to be made by this honourable council, I . . . do earnestly desire, by question, to be satisfied of a few questions to be moved by you, Mr Speaker, concerning the liberty of this honourable council. Wherefore I pray you, Mr Speaker, eftsoons to move these few articles, by question, whereby every one of this House may know how far he may proceed in this honourable council, in matters that concern the glory of God and our true and loyal service to our prince and state. For I am fully persuaded, that God cannot be honoured, neither our noble prince or commonweal preserved or maintained, without free speech and consultation of this honourable council, both which consist upon the liberties of this honourable council, and the knowledge of them also. So here are the questions, Mr Speaker: I humbly and heartily beseech you to give them reading, and God grant us true and faithful hearts in answering of them; for the true, faithful, and hearty service of our merciful God, our lawful prince, and this whole and worthy realm of England, will much consist hereafter upon the answer unto these questions . . . :

Whether this council be not a place for any member of the same here assembled, freely and without controlment of any person, or danger of laws, by bill or speech, to utter any of the griefs of this commonwealth whatsoever, touching the service of God, the safety of the prince, and this noble realm?—Whether

[1] The speaker was Peter Wentworth.

that great honour may be done unto God and benefit and service unto the prince and state without free speech in this council, which may be done with it?—Whether there be any council which can make, add to or diminish from the laws of the realm, but only this council of parliament?—Whether it be not against the orders of this council to make any secret or matter of weight, which is here in hand, known to the prince or any other, concerning the high service of God, prince or state, without the consent of the house?—Whether the Speaker or any other may interrupt any member of this council in his speech used in this House, tending to any of the forenamed high services?—Whether the Speaker may rise when he will, any matter being propounded, without consent of the House, or not?—Whether the Speaker may overrule the House in any matter or cause there in question; or whether he is to be ruled or overruled in any matter, or not?—Whether the prince and state can continue, stand and be maintained without this council of parliament, not altering the government of the state[1]. *D'Ewes' Journals*, p. 411.

(h) *Message from the Queen to the Lords, 27 February,* 1589.

My Lord Treasurer showed them that the message from her Majesty delivered this day unto the Lords of the Upper House was concerning two Bills . . . the one concerning Purveyors and the other touching process and pleadings in the Court of Exchequer, a thing misliked of her Majesty in both those cases, the one binding to the officers and ministers of her own household, and the other to the officers and ministers of her own court [and] of her own revenues; in both of which if any should demean themselves any way unlawfully or untruly, her Majesty was of herself (he said) both able and willing to see due reformation, and so would do to public example of others upon any of the said officers and ministers which at any time should be found to offend . . . *D'Ewes' Journals*, p. 440.

(i) *Speech of the Lord Keeper, 19 February,* 1593.

. . . To your three demands the Queen answereth; liberty of

[1] The questions were not put, and Mr Wentworth, Mr Cope and three other members were sent to the Tower.

speech is granted you; but how far this is to be thought on, there be two things of most necessity, and those two do most harm, which are wit and speech: the one exercised in invention, and the other in uttering things invented. Privilege of speech is granted, but you must know what privilege you have; not to speak every one what he listeth, or what cometh in his brain to utter that; but your privilege is, *aye* or *no*. Wherefore, Mr Speaker, her Majesty's pleasure is, That if you perceive any idle heads, which will not stick to hazard their own estates, which will meddle with reforming the Church and transforming the Commonwealth, and do exhibit any bills to such purpose, that you receive them not, until they be viewed and considered by those who it is fitter should consider of such things and can better judge of them. To your persons all privilege is granted, with this caveat, that under colour of this privilege, no man's ill-doings or not performing of duties be covered and protected. The last; free access is granted to her Majesty's person, so that it be upon urgent and weighty causes, and at times convenient, and when her Majesty may be at leisure from other important causes of the realm.

D'Ewes' Journals, p. 460.

(k) *Message from the Queen to the Commons, 27 Feb.*, 1593.

[*The Speaker.*] The Message delivered me from her Majesty consisteth of three things; first, the end for which the Parliament was called: secondly, the speech which her Majesty used by my Lord Keeper: thirdly, what her pleasure and commandment now is. For the first, 'It is in me and my power' (I speak now in her Majesty's person) 'to call parliaments; and it is in my power to end and determine the same; it is in my power to assent or dissent to anything done in Parliament . . .'

Her Majesty's most excellent pleasure being then delivered unto us by the Lord Keeper, it was not meant we should meddle with matters of state, or in causes ecclesiastical (for so her Majesty termed them). She wondered 'that any would be of so high commandment to attempt' (I use her own words) 'a thing contrary to that which she hath so expressly forbidden'; wherefore, with this she was highly displeased. And

because the words then spoken by my Lord Keeper are not now perhaps well remembered, or some be now here that were not there, her Majesty's present charge and express command is, 'That no bills touching matters of state, or reformation in causes ecclesiastical, be exhibited.' And, upon my allegiance, I am commanded, if any such bill be exhibited, not to read it.

D'Ewes' Journals, p. 478.

4. Freedom from Arrest.

(a) *House of Lords.*

[30 June, 1572] . . . Whereas, upon complaint and declaration made to the said Lords spiritual and temporal, by Henry Lord Cromwell, a Lord of the Parliament, that, in a cause between one James Tavernor against the said Lord Cromwell depending in the Court of Chancery, . . . the person of the said Lord Cromwell was by the sheriff of the county of Norfolk attached, by virtue of a writ of attachment proceeding out of the said Court of Chancery, contrary to the ancient privilege and immunity, time out of memory, unto the Lords of Parliament and Peers of this realm in such case used and allowed, as on the behalf of the said Lord Cromwell was declared and affirmed; wherein the said Lord Cromwell, as a Lord of Parliament, prayed remedy:

Forasmuch as, upon deliberate examination of this cause, in the said Parliament-Chamber, in the presence of the Judges and others of the Queen's Majesty's learned Counsel, there attendant in Parliament, and upon declaration of the opinion of the said Judges and learned Counsel, there hath been no matter directly produced nor declared, whereby it did appear or seem to the said Lords of Parliament there assembled that, by the common law or custom of the realm, or by any statute law, or by any precedent of the said Court of Chancery, it is warranted that the person of any Lord, having place and voice in Parliament, in the like case in the said Court of Chancery before this time hath been attached; so as the awarding of the said attachment at the suit of the said Tavernor against the said Lord Cromwell, for anything as yet declared unto the said Lords, appeareth to be derogatory and prejudicial to the ancient

privilege claimed to belong to the said Lord of this realm: therefore it is . . . Ordered by consent of all the said Lords in Parliament there assembled, That the person of the said Lord Cromwell be from henceforth discharged of and from the said attachment. *Lords' Journals*, I. 727.

(b) *House of Commons.*

(1) *Martin's case*[1], 11 *March*, 1587.

Mr Speaker . . . moved these questions to the House, viz. First, whether they would limit a time certain or a reasonable time to any member of the House for his privilege. The House answered, A convenient time.

Secondly, whether Mr Martin was arrested within this reasonable time. The House answered, Yea.

Thirdly, if White should be punished for arresting Martin. The House answered, No, because the arrest was twenty days before the beginning of the Parliament, and unknown to him that would be taken for reasonable time . . .

D'Ewes' Journals, pp. 410–414.

(2) *Neale's case*, 6 *April*, 1593.

Wesselen Weblen, beer-brewer, and John Lightburn, serjeant-at-mace, being present at the Bar and charged by Mr Speaker very deeply and amply with their great contempt against the authority and jurisdiction of this most High Court of Parliament, in arresting of Mr Francis Neale, one of the members of this honourable assembly, to the great prejudice and derogation of the ancient and usual liberties and privileges of this House . . . It was in the end resolved upon the question, That they should be committed prisoners to the Tower by order of this House, there to remain during the pleasure of this House . . .

D'Ewes' Journals, p. 519.

(3) *Fitzherbert's case*[2], 5 *April*, 1593.

[Privilege was refused] First, because he was taken in execution before the return of the indenture of his election; secondly,

[1] Martin was arrested during an adjournment.

[2] Fitzherbert was arrested on a writ of outlawry, two hours after his election to parliament.

because he had been outlawed at the Queen's suit, and was now taken in execution for her Majesty's debt; thirdly and lastly, in regard that he was so taken by the sheriff, neither *sedente parliamento* nor *eundo* nor *redeundo*. *D'Ewes' Journals*, p. 518.

(c) *Members' servants.*

(1) *Digges' case* (*House of Lords*), 1 *Dec.*, 1584.

[December 1, 1584] . . . Memorandum, that where James Digges, one of the ordinary gentlemen of my Lord's Grace of Canterbury, was committed to the Fleet upon a *Reddit se* in the Exchequer, sithence the beginning of this present parliament, the Lords, at the motion of my Lord's Grace, claiming the ancient privilege of this High Court, gave commandment to the Gentleman Usher that the said James Digges should be brought before them; and this day the said Lords . . . ordered, That the said James Digges, by virtue of the privilege of this Court, should be enlarged and set at liberty. *Lords' Journals*, I. 66.

(2) *Smalley's case*[1] (*House of Commons*), *Feb.* 1576.

[Feb. 21, 1576] . . . Report was made by Mr Attorney of the Duchy . . . That the said Committees found no precedent for setting at large by the mace any person in arrest, but only by writ; and that . . . it appeareth that every knight, citizen and burgess of this House, which doth require privilege, hath been used in that case to take a corporal oath before the Lord Chancellor . . . that the party for whom such writ is made came up with him and was his servant at the time of the arrest made.

[Feb. 27] . . . After sundry reasons, arguments and disputations it is resolved, That Edward Smalley, servant unto Arthur Halle, Esquire, shall be brought hither to-morrow by the serjeant, and so set at liberty by warrant of the mace and not by writ.

[Feb. 28] . . . Edward Smalley . . . being this day brought to the Bar in this House by the serjeant of this House and accompanied with two serjeants of London, was presently delivered from his imprisonment and execution, according to

[1] Smalley, servant to Mr Hall, having been arrested, the House appointed a Committee to search for precedents.

the former judgment of this House, and the said serjeants of London discharged of their said prisoner.

Commons' Journals, I. 107–109.

5. FREEDOM FROM SUBPŒNAS, AND FROM SERVING ON JURIES.

(a) *Cook's case* (*subpœna*), 1585.

[February 10, 1585] . . . In a case of *subpœna* out of the Chancery, served upon Richard Cook, Esquire, a member of this House . . . it was ordered that Mr Recorder of London [and two others] shall presently repair in the name of the whole House into the . . . court of Chancery, and there to signify unto the Lord Chancellor and the Master of the Rolls, that by the ancient liberties of this House the members of the same are privileged from being served with *subpœnas* . . .

[February 11] . . . Mr Recorder of London . . . being returned from the Chancery, did declare unto the House that they have been in Chancery . . . and were answered by the Lord Chancellor that he thought this House had no such liberty of privilege for *subpœnas* as they pretended . . .

D'Ewes' Journals, p. 347.

(b) *Stepneth's case* (*subpœna*), *Feb.* 1585.

[Feb. 11, 1585] . . . After sundry motions . . . it was at last resolved by this House that the said Mr Kirle[1] had committed a great contempt to this whole House and the liberties and privileges of the same . . ., and thereupon ordered and adjudged by this House, That the said Anthony Kirle shall for his said contempt be committed prisoner to the Serjeant's ward and custody, there to remain during the pleasure of this House, and shall also . . . pay unto the said Mr Stepneth . . . his costs and charges . . . *D'Ewes' Journals*, p. 348.

(c) *Tracie's case* (*jury*), *Nov.* 1597.

[Nov. 22, 1597] . . . Sir Edward Hobbie moved the House for privilege for Sir John Tracie, being a member of this House and now presently at the Common Pleas to be put on

[1] Kirle had served a subpœna out of the Star-Chamber on Mr Stepneth, a member.

a jury. Whereupon the Serjeant of this House was presently sent with the mace to call the said Sir John Tracie to his attendance in this House . . . and the said Sir John then returned to this House. *D'Ewes' Journals*, p. 560.

6. Right of examining Returns and determining the Qualifications of Members.

(a) *Returns: Norfolk election*[1], 1586: *resolutions of the House of Commons.*

First, That the first writ was duly executed and the election good, and the second election absolutely void.

Secondly, That it was a most perilous precedent that, after two knights of a county were duly elected, any new writ should issue out for a second election without order of the House of Commons itself.

Thirdly, That the discussing and adjudging of this and such-like differences only belonged to the said House.

Fourthly, That though the Lord Chancellor and Judges were competent judges in their proper courts, yet they were not in parliament.

Fifthly, That it should be entered in the very journal-book of the House that the said first election was approved to be good, and the said knights then chosen had been received and allowed as members of the House, not out of any respect the said House had or gave to the resolution of the Lord Chancellor and Judges therein passed, but merely by reason of the resolution of the House itself, by which the said election had been approved.

Sixthly and lastly, That there should no message be sent to the Lord Chancellor, not so much as to know what he had done therein, because it was conceived to be a matter derogatory to the power and privilege of the said House.

D'Ewes' Journals, p. 397.

[1] An election for the county of Norfolk having taken place, in which there was some informality, a second writ was issued and a second election made. The Chancellor and the Judges decided the first election to be good. The House appointed a Committee (Nov. 9, 1586) 'to examine the state and circumstances of the returns' for Norfolk, and in accordance with their report passed the above resolutions.

(b) *Qualifications: Smyth's case (outlawry)*, 1559.

[Feb. 24, 1559] . . . John Smyth, returned Burgess for Camelford . . . , upon a declaration by Mr Marshe that he had come to this House being outlawed, and also had deceived divers merchants in London . . . , the examination whereof . . . was found and reported to be true . . . , upon which matters consultation had in the House, the question was asked by Mr Speaker, if he should have privilege of this House or not . . . ordered, That he shall still continue a member of this House.

Commons' Journals, I. p. 55.

(c) *Lord Russell's case: (eldest sons of peers)*, 1576.

[Feb. 9, 1576]. It is this day ordered by this House . . . that John Lord Russell, son and heir apparent of the . . . Earl of Bedford, being a burgess for the borough of Bridport . . . shall continue a member of this House, according to the like former precedent in the like case had heretofore of the said now Earl his father. *Commons' Journals*, I. p. 104.

7. RIGHT OF PUNISHMENT AND EXPULSION OF MEMBERS.

Hall's case, 1581.

[February 14, 1581] . . . Where it was informed unto this House . . . that Arthur Halle, of Grantham, in the county of Lincoln, Esquire, had sithence the last session of Parliament made, set forth in print and published a book . . . in part greatly tending to the slander and reproach not only of Sir Robert Bell . . . , late Speaker of this Parliament, and of sundry the particular members of this House, but also of the proceedings of this House in the same last session of Parliament, in a cause that concerned the said Arthur Halle and one Smalley his man: and that there was also contained a long discourse, tending to the diminishment of the ancient authority of this House . . . : Resolved and ordered by the whole House, without any one negative voice, That he should be committed to prison: and . . . that he should be committed to the prison of the Tower, as the prison usual for offenders to be committed unto by this House: and that he should remain in the said prison of the Tower by the space of six months . . . : and . . .

that a fine should be assessed by this House, to the Queen's Majesty's use, upon the said Arthur Halle . . .: and . . . that the same fine should be five hundred marks: and . . . that the said Arthur Halle should presently be removed . . . from being any longer a member of this House during the continuance of this present Parliament; and that the Speaker . . . should direct a warrant from this House . . . for a new Burgess to be returned into this present Parliament for the said borough of Grantham, in the lieu and stead of the said Arthur Halle, so as before disabled any longer to be a member of this House.

Commons' Journals, I. pp. 126, 127.

8. Jurisdiction over persons not Members of Parliament.

(a) *The Corporation of Westbury*, 1571.

May 10, 1571 . . . Forasmuch as Thomas Longe, gentleman, returned one of the Burgesses for the borough for Westbury . . . being a very simple man and of small capacity to serve in that place, hath this day in open court confessed that he gave unto Anthony Garlande, Mayor of the said town of Westbury and unto one Watts of the same town, the sum of £4 for that place and room of burgessship; it is ordered that the said Anthony Garlande and the said Watts shall immediately repay unto the said Thomas Longe the said sum of £4; and also that a fine of £20 be by this House assessed upon the corporation or inhabitants of the said town of Westbury, . . . for their said lewd and slanderous attempt . . . *Commons' Journals*, I. p. 88.

(b) *Williams' case*, 1576.

February 29, 1576 . . . Upon a motion made by Robert Baynebrigge, gentleman, one of the Burgesses . . . against one Williams, as well for sundry unfitting speeches pronounced by the said Williams, in misliking of the present state and government of this realm, as also for threatening and assaulting of the said Robert Baynebrigge; the Serjeant of this House is thereupon, by order of this House, presently sent for the said Williams . . . to answer unto this House of such matters as shall be objected against him . . .

Walter Williams, being brought to the Bar, confessed that he did strike Mr Baynebrigge and that he offered to strike at him with his dagger: whereupon it is ordered that he remain in the Serjeant's ward, till the order of this House be further known tomorrow. *Commons' Journals*, I. p. 109.

9. Privacy of Debate.

April 5, 1571. Thomas Clarke and Anthony Bull, of the Inner Temple in London, gentlemen, were by this House committed to the Serjeant's ward until further order should be taken with them; for that they presumed to enter into this House and were themselves no members of the same, as themselves at the Bar confessed. *Commons' Journals*, I. p. 83.

III.—UNPARLIAMENTARY TAXATION.

1. Distraint of Knighthood.

Pro Ordine Militari recipiendo de summonitionibus.

Regina praedilectis et fidelibus suis Roberto Domino Dudley, magistro equorum, [et quatuor aliis], salutem. Cum nos, ex certis causis urgentibus, diversa brevia nostra omnibus et singulis vicecomitibus de quolibet comitatu, civitate et burgo regni nostri Angliae mandaverimus, praecipiendo quod quilibet hujusmodi vicecomes summoneret omnes et singulos infra ballivas suas, tam infra libertates quam extra, terras tenementa vel haereditamenta quaecumque annui valoris quadraginta librarum in usu vel possessione habentes, quod compareant ad certum diem et locum in hujusmodi brevibus contentos, ad recipiendum ordinem militarem juxta formam statuti in hujusmodi casu editi et provisi; Sciatis quod nos . . . assignavimus vos commissionarios nostros ad tractandum, communicandum et componendum cum omnibus et singulis subditis nostris qui finem nobiscum facere voluerint pro exoneratione praedicti ordinis militaris hac vice: dantes et concedentes vobis, quatuor, tribus vel duobus vestrum, plenam auctoritatem et potestatem per praesentes tractandi . . . et concludendi cum omnibus et

singulis dictis subditis nostris qui finem nobiscum in hujusmodi casu facere voluerint, necnon taxandi et assidendi hujusmodi fines ad certam pecuniarum summam, prout cum subditis nostris praedictis, quibus interest in hac parte, concordare poteritis, ac diem solutionis hujusmodi finium limitandi et appunctandi juxta sanas discretiones vestras . . .

Teste Regina apud Westmonasterium [20 Dec. 1558]
Per ipsam Reginam.
Rymer, Fœdera, XV. p. 493.

2. Loans.

(a) *Circular letter from the Council to the Lords-Lieutenant of the counties for a loan* [1].

After our very hearty commendations to your good lordship, we doubt not but both to your lordship and also to others that have had any charge this last year in any part of government within this realm it is manifest, how necessary it was that this realm was defended both by sea and land in such sort as had been seen against the common potent enemy attempting to have invaded and made a conquest of the same: wherein the Queen's Majesty with the assistance of God's special favour and by expenses of great treasures, which she had most princely reserved for the maintenance of the state of this her realm, hath received great honour to herself, to her people singular comfort and safety, and hereby her enemies repulsed with great losses, ignominy and dishonour: yet nevertheless her Majesty in her wisdom seeth it most necessary to make new preparations for the strengthening of all her forces, both by sea and land, to serve to withstand the new attempts of the enemy this year following . . .

And for the more speedy help to this, it is thought by her Majesty and us of her council, that presently means be made to provide some convenient sum of money by way of loan or lending of her good and faithful subjects, as heretofore hath been yielded unto her Majesty in times of less need and danger, and yet always fully repaid. And to this end we have thought meet by her Majesty's direction to commend the care hereof to

[1] Dated 4 December, 1588 (Strype).

your lordship, having charge by her Majesty, as her lieutenant in the said shire; praying your lordship that without any delay your lordship will consider, either by your own knowledge or with secret conference with some such in that shire as you think to be well affected to this service and are of knowledge to inform your lordship therein, how of each particular person, being men of lands or of wealth in goods, such particular sums might be reasonably required by her Majesty's letters under her privy seal in way of loan in that whole county, [as that] her Majesty might be assured upon her demand by her said letters to every several person to have the total sum within that shire of [blank] or rather more.

And to this purpose we require your lordship to consider if the number of all such as are known to be of sufficient livelihood and wealth within that shire, of whom you shall think her Majesty may readily have by way of loan, only for the space of one whole year, such particular sums of hundreds of pounds or of half hundreds of pounds, or at the least not under the sum of £25, according as the abilities of the people shall seem meet to yield.

And in this matter we require you to forbear none that hath any residence within that shire, being in your opinion able to satisfy this purpose. And yet if there be any person of ability, that is an officer to her Majesty in any of her courts of record or of her revenue, that hath any fee or yearly profit by any such office, we require you to make a special note of such, with your opinion of the sums to be demanded: for that we are purposed that if the sums noted by you upon them shall not seem to us sufficient for her Majesty's service, the same shall be by us assessed to such sums as we shall think reasonable.

And to conclude, we require your lordship, with all speed that you can, to enter into consideration hereof; and to send to us in writing the names and surnames, with addition of their dwelling places, of all such as shall seem meet and able to make this manner of loan, so as the total sum above-mentioned, or a greater sum, may be duly had.

Strype, Annals, VI. p. 40.

(b) *Privy Seal for a loan.*

To our trusty and well-beloved Thomas Lawley of the Coppies, gent.[1]

By the Queen.

Trusty and well-beloved, we greet you well. Whereas for the better withstanding of the intended invasion of this realm, upon the great preparations made by the King of Spain both by sea and land the last year, the same having been such as the like was never prepared at any time against this realm, we were enforced for the defence of the same and of our good and loving subjects to be at infinite charges both by sea and land, especially for that the said intended invasion tended directly to the conquest of the realm; and finding also by such intelligences as we daily receive that the like preparations are now making for the like intent the next year by the said King, for the withstanding whereof it shall be necessary for us to prepare both by sea and land, which cannot be performed without great charges; We have therefore thought it expedient, having always found our good and loving subjects most ready upon such like occasion to furnish us by way of loan of some convenient portions of money agreeable with their estates (which we have a mind always to repay), to have recourse unto them in like manner at this present. And therefore having made choice in the several parts of our realm of a number able to do us this kind of service (which is not refused betwixt neighbour and neighbour), amongst this number we have also particularly named you, Thomas Lawley, for your ability and good will you bear to us and our realm, to be one. Wherefore we require you to pay to our use the sum of £25 to such person as by our lieutenant of that county shall be named to you by his hand writing. And these our letters of privy seal subscribed by the party so named by our lieutenant that shall receive the same, confessing the time of the receipt thereof, shall be sufficient to bind us, our heirs and successors, duly to repay the said sum to you or to your assignes at the end of one year from the time of your payment.

[1] This address is endorsed on the letter.

Given under our privy seal at our palace of Westminster the xx^th^ day of February in the xxxi^st^ year of our reign.

THO. KERR.

1589.

Apud Watlesburge decimo nono die Aprilis anno regni domine nostre Regine Elizabethe tricesimo primo.

Received of Thomas Lawley Esquire the day and year above-said £25 unto her Majesty's use by me,

E. LEIGHTON.

State Papers (*Dom.*) *Eliz.* ccxxii. p. 128.

3. BENEVOLENCES.

(a) *Benevolence of the Clergy*, 1587.

Most excellent and most gracious Sovereign Lady; We, your prelates and clergy of the province of Canterbury, now gathered together in a convocation or synod, calling to our minds . . . the manifold and great benefits that every member of this realm . . . doth daily receive, by the blessing of Almighty God, under your Majesty's most happy and peaceable government . . . , and further, seeing the infinite occasions that through the execrable malice of the enemies of the Gospel of Christ do daily arise, whereby your Highness is driven to many extraordinary and inestimable expenses . . . , have with one joint consent and hearty good will, over and above one subsidy of 6*s.* in the pound already granted . . ., do give and grant unto your Highness' person only a benevolence or contribution of 3*s.* of every whole pound, of the clear yearly value of all ecclesiastical and spiritual promotions within the said province of Canterbury, and of the lands, benefices and appropriations and other possessions and revenues to the same belonging . . . , the tenths thereof being deducted; all vicarages under the value of £10 . . . and all lands, revenues, possessions, benefices and appropriations belonging to either of the Universities of Cambridge or Oxford or unto any college in the same [or belonging to certain other colleges, or assigned for certain purposes] only excepted: the same contribution or benevolence . . . to be made . . . . at three several payments . . .: the first thereof to be due the first of May next, and the second to be due the first of May . . . 1588, and the third to be due the first of May . . . 1589. . . . [dated 4 March, 1586–7.]

Strype, Whitgift, III. pp. 196–199; cf. *id.* I. p. 497.

(b) *The Queen's acceptance of the Benevolence of the Clergy,* 1587.

Regina, etc. omnibus ad quos, etc. salutem.

Cum praelati et clerus Cantuariensis provinciae, nostra authoritate in synodo suo seu convocatione congregati ... ultra et praeter subsidium sex solidorum singularum librarum annuarum, etiam quandam benevolam contributionem trium solidorum pro singulis libris annuis omnium et singulorum beneficiorum suorum ecclesiasticorum et promotionum spiritualium quorumcumque ac omnium possessionum et reventionum eisdem annexarum seu quovismodo spectantium et pertinentium dederint et concesserint, prout per quoddam scriptum seu instrumentum publicum sigillo praedilecti et fidelis consiliarii nostri Johannis archiepiscopi Cantuariensis munitum et nobis exhibitum, gerens datam quarto die Martii anno domini [1586], plenius liquet et apparet: Sciatis igitur quod nos, ad humilem petitionem praelatorum nostrorum et cleri antedictorum, praefatam benevolae contributionis concessionem acceptamus, approbamus ac eandem confirmamus; ... ac insuper sciatis quod ... licentiam, facultatem et authoritatem praelatis nostris et clero praedictis in hac praesenti synodo congregatis decernendi, ordinandi et constituendi quaecumque decreta, ordinationes et constitutiones synodales, ac eadem sic per ipsos decreta ordinata et constituta executioni mandandi et cum effectu exequendi, quae sibi commoda seu opportuna videbuntur, pro meliori vera et justa collectione et solutione dictae benevolae contributionis . . . concedimus et confirmamus per praesentes ...

[Dated 9 March, 1586–7.]

Rymer, Fœdera, XVI. p. 5.

IV.—JUDICATURE.

1. Trial of the Duke of Norfolk, 1572.

Novi anni principium novum et triste spectaculum Londinensibus in praetorio Westmonasteriensi exhibuit; pegma enim ligneum per medium praetorii a porta ad partem superiorem erectum et ibi tribunal sedibus utrinque circumpositis, cujus

modi totis octodecim annis viderant nullum. Ad hoc die Januarii xvi Thomas Howardus, Dux Norfolciae, inter Owenum Hoptonum Arcis Londini Praefectum et Petrum Carew Equites Auratos, funesta securi acie aversa praegestata, ducitur. In tribunali sedit Georgius Talbottus, comes Salopiae, summus Angliae Seneschallus ad illum diem constitutus; utrinque proceres qui cognitores dati, quos pares dicimus, Reginaldus Greius Comes Cantii [and 24 other Peers].

Indicto silentio legitur diploma quo seneschallo authoritas delata; deinde bacillum album a Garterio Armorum Rege illi in manus traditur, quod ipse paulo post primario atriensi porrexit; ille juxta adstans toto judicii tempore erectum tenuit. Deinde comites et barones nominatim cientur, et ad suum quisque nomen respondet. Silentio iterum indicto, Praefectus Arcis jubetur praeceptum suum redhibere et Ducem pro tribunali sistere. Mox sistitur; latera clauserunt hinc Praefectus Arcis, illinc Petrus Carew; proximus adstitit securiger, acie a Duce aversa. Indicto iterum silentio, actuarius ad judicia coronae Ducem ita affatus est: 'Thoma, Dux Norfolciae, nuper de Kenninghall in Comitatu Norfolciae, manum attolle.' Cum ille manum sustulisset, actuarius crimina de quibus in judicium erat vocatus clara voce legit: scilicet, quod anno Reginae Elizabethae undecimo et postea Dux perfide consilia agitaverit eam de solio deturbandi et e medio tollendi, belloque concitato et externis copiis inductis regnum invadendi [&c.]. His perlectis actuarius ducem sciscitatur an horum criminum sit reus? Ille obsecravit ut, si per legem liceret, patronus sibi ad causam defendendam constitueretur. Catelinus primarius justitiarius respondit, hoc per legem minime licere . . . 'Edoceri cupio (induit dux) si singula illa sint crimina laesae majestatis . . .' Plura locuturum actuarius interrupit clamitans, 'Thoma, Dux Norfolciae, reusne es horum criminum?' Negavit ille. Rogavit iterum actuarius, 'Quomodo vis judicari?' Respondit: 'Deo et his paribus causam commendo meam . . .'

[The charges having been stated and argued in order:]

Cum jam advesperasceret, Seneschallus ducem rogavit si quid amplius haberet quod pro se diceret? Respondit ille: 'In legum aequitate fidem colloco.' Seneschallus jussit ut Praefectus Arcis ducem seorsim submoveret, et silentio indicto ad Pares

conversus inquit: 'Audivistis quomodo Thomas Dux Norfolciae, laesae majestatis postulatus, nec se reum agnoscens, Deo et vobis causam submisit. Vestrum itaque est inter vos considerare an reus sit peragendus, et ex conscientia et honore sententiam ferre.' Simulque jussit ut se seorsim subducerent et invicem consultarent. Brevi tempore interjecto ad sua sedilia revertuntur. Tunc Seneschallus ab infimo exorsus inquit: 'Domine Delaware, estne Thomas Dux Norfolciae reus criminum laesae majestatis de quibus in judicium vocatur?' Ille assurgens manuque ad pectus apposita respondit: 'Reus.' Itidem et singuli suo ordine rogati. Tunc tribunali Dux denuo sistitur, quem Seneschallus ad hunc modum alloquitur: 'Thoma, Dux Norfolciae, tu de diversis laesae majestatis criminibus in judicium vocatus Deo et his paribus te submisisti, qui singuli te reum pronuntiarunt. Ecquid habes cur judicium non pronuntietur?' Dux respondet: 'Fiat voluntas Dei, qui inter me et falsos accusatores judicabit.' Silentibus jam omnibus, securis acies adversa in illum convertitur. Mox Barhamus nomine Reginae Seneschallum ut judicium pronuntiaret postulat, quod ille in hujusmodi verba lacrimis obortis ex formula pronuntiavit: 'Quandoquidem tu, Thoma Dux Norfolciae, criminum laesae majestatis postulatus, te reum negaveris teque Parium judicio, qui reum declararunt, submiseris, hic consessus judicat te hinc in Arcem reducendum, inde crati impositum per mediam urbem ad furcas trahendam, ibi suspendendum, semimortuum deponendum, eviscerandum, capiteque abscisso in quatuor partes dissecandum. De capite et corporis partibus fiat quod Reginae visum fuerit: animae autem tuae misereatur Deus'... Haec quae praesens audivi exquisitius explicavi, cum in rebus magnis et minima memorari posteritatis intersit..

Camden, Annales, I. pp. 208–216.

2. Trial of Mary, Queen of Scots, 1586.

(1) *Commission for the trial.*

Quid de Scotorum Regina fieret, consiliarii non unum idemque senserunt. Alii nihil asperius in eam statuendum censuerunt, sed arctissime custodiendam, tum quod non criminis author sed tantum conscia, tum quod valetudinaria nec diu super-

futura: alii, ut religioni consuleretur, protinus e media tollendam et ex lege. Leicestrius veneno maluit, et theologum submisit qui Walsinghamum hoc licere doceret . . . Variatum iterum e qua lege in illum ageretur, an ex illa anni xxv Edwardi Tertii (qua maiestatis laesae tenetur, qui Regi aut Reginae perniciem struxerit, bellum in eius regno moverit, aut hostibus adhaeserit), an ex illa anni xxvii Elizabethae, quam dixi. Vicit tandem eorum sententia qui ex hac postrema maluerunt, utique ad hanc rem nata ideoque accommodanda. Ex lege igitur illa superiori anno lata, ut inquireretur et sententia pronuntiaretur in illos qui rebellionem concitaverint, regnum invaserint, aut Reginae vim inferre tentaverint, plures e Sanctiori Consilio et Angliae proceribus diplomate delegati sunt . . . quod formula forensi ita se habet:

'Elizabetha, Dei gratia Angliae, Franciae et Hiberniae Regina, Fidei Defensor, etc., reverendissimo in Christo Patri Ioanni Cantuariensi Archiepiscopo, totius Angliae Primati et Metropolitano et uni de privato Consilio nostro, ac praedilecto et fideli nostro Thomae Bromley Militi, Cancellario Angliae, alteri de privato Consilio nostro, ac etiam praedilecto et fideli nostro Willielmo Domino Burghley, Domino Thesaurario Angliae, alteri de privato Consilio nostro [and to 43 others][1] salutem etc.' Deinde ne verbatim describam: post recapitulationem legis (sive Actus ut nostri vocant) anno superiori sancitae, haec sequuntur: 'Cum post finem sessionis Parlamenti, scilicet post primum diem Junii anno regni nostri vicesimo septimo, diversae res compassatae et imaginatae fuerunt, tendentes ad laesionem personae nostrae Regiae, tam per Mariam filiam et haeredem Jacobi Quinti nuper Scotorum Regis ac communiter vocatam Reginam Scotorum et Dotariam Franciae, praetendentem titulum ad coronam huius regni Angliae, quam per diversas alias personas cum scientia (Anglice, with the privity) eiusdem Mariae, prout datum est nobis intelligi; cumque nos intendimus et determinamus quod Actus praedictus in omnibus et per omnia foret rite et effectualiter executus secundum tenorem eiusdem Actus, quodque omnes offensiones

[1] The list comprises twenty-nine Lords, nine Knights and Esquires (members of the Privy Council), the two Chief-Justices and the Chief Baron, and two other judges.

supradictae in Actu supradicto, ut praefertur, mentionatae et circumstantiae earundem forent examinatae, et sententia sive judicium superinde detur secundum tenorem et effectum Actus illius: Vobis et maiori vestrum parti plenam et integram potestatem damus ad examinandum omnes et singulas res compassatas et imaginatas, tendentes ad laesionem personae nostrae regiae, tam per praedictam Mariam quam per quascunque alias personas cum scientia (Anglice, with the privity) eiusdem Mariae, et omnes circumstantias earundem, ac omnes alias offensiones supradictas quascunque in Actu supradicto ut praefertur mentionatas: ac superinde secundum tenorem Actus praedicti ad dandum sententiam sive judicium prout super bonam probationem materia vobis apparebit. Et ideo vobis mandamus, quod ad certos dies et loca quos vos vel maior pars vestrum ad hoc provideritis, diligenter super praemissa in forma praedicta procedatis, etc.' *Camden, Annales*, I. pp. 413–417.

(2) *Sentence on Mary, Queen of Scots.*

His peractis[1] Conventus in xxv diem Octobris ad Cameram Stellatam Westmonasterii prorogatur . . . Die isto . . . sententia in Scotorum Reginam prolata est et delegatorum sigillis et subscriptionibus firmata atque in actu relata hisce verbis: 'Ex unanimi assensu et consensu suis sententiam et judicium ad diem et locum ultimum recitatum pronuntiant, reddunt et dicunt, quod post finem praedictae sessionis parlamenti in commissione praedicta specificata, videlicet post praedictum primum diem Junii anno vicesimo septimo supradicta et ante datum eiusdem commissionis, diversae res compassatae et imaginatae fuerunt infra hoc regnum Angliae per Anthonium Babingtonum et alias, cum scientia (Anglice, with the privity) dictae Mariae, praetendentis titulum ad coronam hujus regni Angliae, tendentes ad laesionem, mortem et destructionem regalis personae dictae Dominae nostrae Reginae. Ac scilicet, quod post praedictum primum diem Junii anno vicesimo septimo supradicto et ante datum commissionis praedictae praedicta Maria, praetendens titulum ad coronam hujus regni Angliae, compassavit et imaginata fuit infra hoc regnum Angliae diversas

[1] Namely, the inquiry before the Commissioners at Fotheringay.

res tendentes ad laesionem, mortem et destructionem regalis personae Dominae nostrae Reginae, contra formam statuti in commissione praedicta specificati.' De hac sententia, quae ex amanuensium fide tota pependit, nec illi coram in medium producti ex lege prima anni xiii ipsius Elizabethae, plurimus variusque apud homines sermo, dum alii illos fide dignos alii indignos existimarent. *Camden, Annales*, I. pp. 431–2.

3. Grant of Office to a Judge, 1584.

Patens Edwardo Flowerdue pro officio tercii Baronis de Scaccario.

Regina omnibus ad quos, etc., salutem. Sciatis quod nos de gratia nostra speciali ac ex vera scientia et mero motu nostris dedimus et concessimus ac per praesentes damus et concedimus dilecto et fideli nostro Edwardo Flowerdue, servienti ad legem, officium tercii Baronis de Scaccario nostro, videlicet illud officium quod Johannes Clenche, serviens ad legem, nuper habuit et exercuit. Ac ipsum Edwardum Flowerdue tercium Baronem de Scaccario nostro facimus, ordinamus et constituimus per praesentes, habendum tenendum et occupandum officium praedictum eidem Edwardo quamdiu se bene gesserit in eodem. Ac eciam damus et concedimus praefato Edwardo Flowerdue pro exercitio officii praedicti omnia et singula tot tanta et talia eadem et consimilia vadia feoda regarda denarios commoditates profitua et emolumenta quot quanta quae et qualia praedictus Johannes Clenche nuper habens et exercens officium illud habuit percepit aut habere et percipere debuisset aut potuisset. . . . Et ulterius, de uberiori gratia nostra ac in consideratione quod Edwardus Flowerdue est serviens ad legem et ut idem officium tali persona magis dignum sit ac ut praedictus Edwardus Flowerdue iuxta estimationem quae de eo habetur melius supportetur, dedimus et concessimus . . . eidem Edwardo Flowerdue quandam annuitatem viginti marcarum legalis monetae Angliae ultra omnia praedicta feoda et caetera praemissa ei superius concessa per praesentes. . . . Et insuper concedimus praefato Edwardo Flowerdue . . . quod idem Edwardus de tempore in tempus quamdiu erit in officio praedicto habeat et utatur tali habitu et togis, robis et omnibus aliis apparatibus suis qualiter

inferior Justiciarius de Banco nostro vel de Communi Banco tamquam Justiciarius ibidem debet aut potest habere et uti. Ac quod apud omnes personas et in omni loco et tempore idem E. F. reputabitur . . . et erit in eodem ordine, gradu, estimatione . . . ad omnes intentiones prout aliquis inferior Justiciarius de quolibet praedictorum Bancorum est sive esse debet de tempore in tempus. . . [non obstante clause].

Apud Westm. 23 Oct. a. r. 26.

Pat. Roll. (*de diversis annis*) *Eliz.* (No. 1606).

4. Justices of the Peace.

(a) *The Commission before* 1590.

Elizabetha, Dei gratia . . . etc. praedilecto et fideli Edmundo Cantuariensi Archiepiscopo, etc., necnon praedilectis Thomae Bromley militi domino Cancellario, Willielmo domino Burghley Thesaurario [et aliis], salutem.

[I.] Sciatis quod assignavimus vos, conjunctim et divisim, ad pacem nostram ac ad statuta et ordinationes apud Winton., Northampton et Westmonasterium pro conservatione pacis ejusdem; necnon ad ordinationes ibidem et apud Cantabrigiam de venatoribus, operariis, artificibus, servitoribus, hostellariis et aliis mendicantibus et vagabundis et aliis hominibus mendicantibus qui se nominant travailing men; et similiter ad statuta et ordinationes apud Westmonasterium anno regni Henrici Quarti nuper Regis Angliae defuncti primo et secundo, de liberatis signorum societatis militibus, armigeris seu valectis, et aliis liberatis pannorum minime dandis, nec eis liberatis aliqualiter utendis: ac ad quoddam aliud statutum Henrici Quinti nuper Regis, etc., de contrafactura, lotura, tonsura et alia falsitura monetae terrae nostrae custodiendum: ac ad omnia alia ordinationes et statuta pro bono pacis nostrae ac quieto regimine et gubernatione populi nostri edita in comitatu nostro Kanciae, tam infra libertates quam extra, juxta vim, formam et effectum eorundem, custodienda et custodiri facienda; et ad omnes illos quos contra formam ordinationum et statutorum praedictorum delinquentes inveneritis castigandos et puniendos, prout secundum formam ordinationum et statutorum praedictorum fuerit faciendum: et ad omnes illos, qui aliquibus

de populo nostro de corporibus suis vel de incendio domorum suarum minas fecerint, ad sufficientem securitatem de pace et bono gestu suo erga nos et populum nostrum inveniendam, coram vobis venire, et, si hujusmodi securitatem invenire recusaverint, tunc eos in prisonis nostris, quousque ejusmodi securitatem invenerint, salvos custodiri faciendum.

[II.] Assignavimus etiam vos et quoscunque vestrum justiciarios nostros ad inquirendum per sacramentum proborum et legalium hominum de comitatu praedicto, per quos rei veritas melius sciri poterit, de omnimodis feloniis, transgressionibus, forstallariis, regratariis et extortionibus in comitatu praedicto per quoscunque et qualitercunque factis: et etiam de omnibus illis, qui in conventiculis contra pacem nostram et in perturbationem populi nostri seu vi armata ierint vel equitaverint: et etiam de hiis qui ad gentem nostram mayhemandam vel interficiendam in insidiis jacuerint: et etiam de omnibus illis qui capitiis et aliis liberatis de unica secta, per confoederationem et pro manutenentia, contra prohibitionem ac formam ordinationum et statutorum praedictorum inde ante haec tempora factorum, usi fuerint, et aliis hujusmodi liberatis imposterum utentibus: et etiam de hostellariis et aliis qui in abusu mensurarum et ponderum ac in venditione victualium, ac etiam de quibuscunque operariis, mendicantibus, artificibus, servitoribus, hostellariis et vagabundis, ac aliis qui contra formam ordinationum et statutorum praedictorum . . . de hujusmodi venatoribus, operariis [&c.] inde factorum deliquerint, vel attemtaverint in comitatu praedicto: ac etiam de quibuscunque vicecomitibus, majoribus, ballivis, senescallis, constabulariis ac custodibus gaolarum qui in executione officiorum suorum erga hujusmodi artifices [&c.] juxta formam ordinationum et statutorum praedictorum faciendorum indebite se habuerint, aut tepidi, remissi vel negligentes fuerint: et de omnibus et singulis suis articulis et circumstantiis ac aliis praemissis contra formam ordinationum et statutorum praedictorum factis, qualitercunque concernentibus plenius veritatem.

[III.] Et ad indictamenta quaecunque, tam coram vobis seu aliquibus vestrum aut aliis nuper custodibus pacis et justiciariis Domini Edwardi IV et Edw. V, nuper regum Angliae, ac Ric. III nuper (de facto et non de jure) regis Angliae, necnon Domini

Henrici nuper Regis Angliae VII, Henrici VIII, Edwardi VI et Mariae, [&c.], ad hujusmodi felonias, transgressiones et malefacta in comitatu praedicto audienda et terminanda assignatis . . . facta et nondum terminata, quam coram vobis et sociis vestris nunc custodibus pacis nostrae et justiciariis nostris hujusmodi . . . facta et nondum terminata, inspicienda, ac ad procedendum inde ac processus versus omnes alios quos coram vobis seu aliquibus vestrum indictari contigerit, quousque capiantur, reddantur seu utlagentur, faciendos et continuandos.

[IV.] Assignavimus etiam vos, 79, 78, 77, &c., quatuor, tres, et duos vestrum (quorum aliquem vestrum, vos, A. B. C. D. &c., unum esse volumus) justiciarios nostros ad felonias praedictas ac ea omnia et singula quae per hujusmodi hostellarios et alios in abusu mensurarum et ponderum ac in venditione victualium, et omnia alia quae per hujusmodi operarios [&c.] contra formam ordinationum et statutorum praedictorum seu in enervatione eorundem in aliquo praesumpta vel attemptata fuerint: ac extortiones et regratarias praedictas, tam ad sectam nostram quam aliorum quorumcunque coram vobis pro nobis aut pro seipsis conqueri aut prosequi volentium, audiendum et terminandum: necnon ad transgressiones et forstallarias praedictas ac omnia alia superius non declarata determinanda ad sectam nostram tantum: et omnia alia, quae virtute ordinationum et statutorum praedictorum per custodes pacis nostrae et justiciarios nostros hujusmodi discuti et terminari debent, audienda et terminanda: et ad eosdem operarios, artifices et servitores per fines, redemptiones et amerciamenta ac alio modo pro delictis suis, prout ante ordinationem de punitione corporali hujusmodi operariis [&c.] pro delictis suis exhibenda factum fieri consuevit, necnon eosdem vicecomites, majores, ballivos, seneschallos, constabularios ac custodes gaolarum, venatores, vitellarios, hostellarios, mendicantes et vagabundos, super hiis quae contra formam ordinationum et statutorum praedictorum attemptata fuerint, castigandos et puniendos, secundum legem et consuetudinem praedictas ac formam ordinationum et statutorum praedictorum.

[V.] Proviso semper quod, si casus difficultatis super determinatione extortionum hujusmodi coram vobis venire contigerit,

tunc ad judicium inde reddendum, nisi in praesentia unius justiciariorum nostrorum de uno vel de altero Banco aut justiciariorum nostrorum ad assisas in comitatu praedicto capiendas assignatorum, coram vobis minime procedatur.

[VI.] Et ideo vobis et cuilibet vestrum mandamus, quod circa custodiam pacis, ordinationum et statutorum praedictorum diligenter intendatis; et ad certos dies et loca quos vos seu aliqui vestrum ad hoc provideritis diligenter super praemissa faciatis inquisitiones: et praemissa omnia et singula audiatis et terminetis, ac ea faciatis et expleatis in forma praedicta, facturi inde quod ad justitiam pertinet secundum legem et consuetudinem regni nostri Angliae: salvis nobis amerciamentis et aliis ad nos inde spectantibus.

[VII.] Mandavimus etiam[1] vicecomiti nostro Kanciae quod, ad certos dies et loca quos vos seu aliqui vestrum ei scire faciatis, venire faciat coram vobis seu aliquibus vestrum tot et tales probos et legales homines de balliva sua, tam infra libertates quam extra, per quos rei veritas in praemissis melius scire poterit et inquiri.

[VIII.] Et vos, praefati Thomas Wotton, ad dies et loca praedicta, brevia, praecepta, processus et indictamenta praedicta coram vobis et dictis sociis vestris venire faciatis, et ea inspiciatis et debito fine terminetis, sicut praedictum est.

In cujus rei testimonium, &c. Datum sexto die Augusti, Anno regni nostri vicesimo primo.

Lambarde, Eirenarcha, ed. 1581, p. 39.

(b) *The Commission after* 1590.

Elizabetha Dei gratia &c., predilecto et fideli Johanni Cantuariensi Archiepiscopo [et aliis] salutem.

[I.] Sciatis quod assignavimus vos, conjunctim et divisim, et quemlibet vestrum, justiciarios nostros ad pacem nostram in comitatu nostro Kanciae conservandam, ac ad omnia ordinationes et statuta pro bono pacis nostrae ac pro conservatione eiusdem et pro quieto regimine et gubernatione populi nostri edita in omnibus et singulis suis articulis in dicto comitatu nostro, tam infra libertates quam extra, juxta vim, formam et

[1] 'enim' in text.

effectum eorundem custodiendum et custodiri faciendum; et ad omnes illos quos [&c. as before] . . . salvos custodiri faciendum.

[II.] Assignavimus etiam vos et quoslibet duos vel plures vestrum, quorum aliquem vestrum, A. B. C. D. E. F. &c., unum esse volumus, justiciarios nostros ad inquirendum per sacramentum proborum et legalium hominum de comitatu praedicto, per quos rei veritas melius sciri poterit, de omnibus et omnimodis feloniis, veneficiis, incantationibus, sortilegiis, arte magica, transgressionibus, forstallariis, regratariis, ingrossariis et extortionibus quibuscunque, ac de omnibus aliis malefactis et offensis de quibus justiciarii pacis nostrae legitime inquirere possunt aut debent, per quoscunque et qualitercunque in comitatu predicto factis: ac etiam de omnibus illis qui in comitatu praedicto in conventiculis contra pacem nostram in perturbationem populi nostri seu vi armata ierunt vel equitaverunt: ac etiam de omnibus hiis qui ibidem ad gentem nostram mayhemandum vel interficiendum in insidiis jacuerunt: ac etiam de hostellariis et aliis omnibus et singulis personis qui in abusu ponderum vel mensurarum sive in venditione victualium contra formam ordinationum et statutorum inde pro communi utilitate regni nostri Angliae et populi nostri eiusdem editorum deliquerunt vel attemptaverunt in comitatu praedicto: ac etiam de quibuscunque vicecomitibus, ballivis, seneschallis, constabulariis, custodibus gaolarum et aliis officiariis qui in executione officiorum suorum circa praemissa indebite se habuerunt aut tepidi, remissi vel negligentes fuerunt: et de omnibus articulis et circumstantiis et aliis rebus quibuscunque per quoscunque et qualitercunque in comitatu praedicto factis, qualitercunque praemissorum concernentibus plenius veritatem.

[III.] Et ad indictamenta quaecunque sic coram vobis seu aliquibus vestrum capta, aut coram aliis nuper justiciariis pacis in comitatu praedicto facta sive capta et nondum terminata inspiciendum, ac ad processus inde versus omnes sic indictatos, quousque capiantur, reddant se vel utlagentur, faciendum et continuandum: et ad omnia et singula felonias, veneficia, incantationes, sortilegia, artes magicas, transgressiones, forstallarias, regratarias, ingrossarias, extorsiones, conventicula, indictamenta predicta caeteraque omnia praemissa, secundum leges et statuta regni nostri Angliae, prout in huiusmodi casu

fieri consuevit aut debuit, audiendum et terminandum; et ad eosdem delinquentes pro delictis suis per fines, redemptiones, amerciamenta, forisfacturas ac alio modo, prout secundum legem et consuetudinem regni nostri Angliae aut formam ordinationum vel statutorum praedictorum fieri consuevit aut debuit, castigandum et puniendum.

[IV.] Proviso semper quod, si casus difficultatis super determinatione aliquorum praemissorum coram vobis vel aliquibus duobus vel pluribus vestrum evenire contigerit, tunc ad judicium [&c. as before] . . . minime procedatur.

[V.] Et ideo vobis [&c. as before] intendatis; et ad certos dies et loca quae vos vel aliqui hujusmodi duo vel plures vestrum, ut predictum est, ad hoc provideritis [&c. as before] . . . spectantibus.

[VI.] Mandamus etiam [1] tenore presentium vicecomiti nostro Kanciae quod ad certos dies et loca, quae vos vel aliqui hujusmodi duo vel plures vestrum ut praedictum est ei ut praedictum est scire feceritis, venire faciat [&c. as before] . . . inquiri.

[VII.] Assignavimus denique te prefatum Edwardum H. militem custodem rotulorum pacis nostrae in dicto comitatu nostro, ac propterea tu ad dies et loca praedicta [&c. as before] . . . sicut praedictum est.

In cujus rei testimonium, &c. Datum vicesimo die Novembris, anno regni nostri tricesimo quarto.

Crompton, L'Office et authority de Justices de Peace, ed. 1593, p. 3.

(c) *The Oath of a Justice of the Peace.*

Ye shall swear that, as justice of the peace in the county of Kent, in all articles in the Queen's Commission to you directed, ye shall do equal right to the poor and to the rich after your cunning, wit and power, and after the laws and customs of the realm and statutes thereof made; and ye shall not be of counsel with any quarrel hanging before you; and that ye hold your sessions after the form of statutes thereof made and the issues, fines and amercements that shall happen to be made and all forfeitures which shall fall before you ye shall cause to be entered without any concealment or embezzling and truly send

[1] 'enim' in text.

them to the Queen's exchequer. Ye shall not let for gift or other cause, but well and truly ye shall do your office of justice of the peace in that behalf, and that you take nothing for your office of justice of the peace to be done, but of the Queen, and fees accustomed and costs limited by the statute; and ye shall not direct nor cause to be directed any warrant (by you to be made) to the parties, but ye shall direct them to the bailiffs of the said county or other the Queen's officers or ministers, or other indifferent persons to do execution thereof. So help you God and by the contents of this book.

Lambarde, Eirenarcha, ed. 1581, p. 59.

5. Writ establishing the Court of Castle Chamber in Ireland.

Commissio specialis pro Camera Stellata in Hibernia.

[I.] Elizabeth by the grace of God, &c. To our right trusty and well-beloved the Lord Deputy Lieutenant Justice or Justices of our realm of Ireland, Lord Chancellor or Keeper of our great seal there now being or that hereafter shall be, our Lord Treasurer of the same realm now being or [&c.], the Chief Justice of our high bench in that our realm that now is or [&c.], the Chief Justice of our common pleas in the same realm that now is or [&c.], the Chief Baron of our Exchequer there that now is or [&c.], and the Master of the Rolls of our Chancery in the same realm that now is or [&c.], greeting.

[II.] Forasmuch as by unlawful maintenance, embraceries, confederacies, alliances, false bondings and taking of money by the common jurors of that our realm, and also by untrue demeaning of sheriffs in making of panels and other untrue returns, and by riot, routs, unlawful assemblies, forcible entries and other like hateful disorders . . . and offences the policy and good rule of that our realm is well near subverted, and for not punishing of these inconveniences and by occasion of the premisses nothing or little is or may be found by enquiry; whereby the laws of that our realm in execution do and must take little or no effect, to the increase of murders, perjuries and unsureties of our subjects and loss of their lands and goods, to

the great hindrance of our service and to the displeasure of Almighty God: for the better remedy whereof and to the intent that such execrable and pernicious evils . . . shall not escape without just and due correction and punishment, We have thought meet to appoint that a particular court for the hearing and determination of these detestable enormities . . . shall be holden within our Castle at our City of Dublin in that our realm of Ireland or in such other place where the ordinary term shall be kept in that our realm, and that the same our Court shall be called the Castle Chamber of our said realm of Ireland.

[III.] And having good experiment of your truth, circumspection, integrity and knowledge and like good hope of such as shall by our appointment succeed you in your office, We do by these presents appoint and constitute you and such as shall in your offices for the time execute, or any three of you, whereof the said Lord Deputy Lieutenant Justice or Justices, Lord Chancellor or Keeper of our said great seal or Lord Treasurer to be one, our Commissioners and Justices of our said Court of our Castle Chamber, together with such as by authority hereof shall be to you associate in the times of the four ordinary terms to be holden within that our realm from time to time, two days every week of the said term (that is to say) Wednesday and Friday or any other days and times when you or any two of you [quorum as before] shall think meet.

[IV.] And further, We do give full power to the Lord Deputy Lieutenant Justice or Justices, Lord Chancellor and Keeper of our said great seal and Lord Treasurer of our said realm and to every of them for the time being, and which shall be present at any time of sitting in the said Court, to call as associate unto him or them such and so many of the lords spiritual and temporal and such of our Privy Council or Justices of any our Benches in our said realm of Ireland as they or any of them . . . shall think meet to sit and join with him or them in the hearing and determining of such causes and matters as in our said Court shall be heard or determined.

[V.] And further, We give unto you or any three of you [quorum as before] together with such of the said Lords Councillors and Justices, or such a competent number of them or any of them

as then shall be called and present to sit with you as aforesaid, full power to receive, hear and determine all bills, complaints, supplications and informations to be made . . . into our said Court concerning any riots, routs, forcible entries, unlawful assemblies, deceits, perjuries, forgeries, defaults, falsities, misdemeanours of sheriffs and other officers, contempts, disorders, misdemeanours and offences committed . . . within our said realm of Ireland, and [the] dependents and incidents upon the same, in such like manner . . . as such like offences are or heretofore have been used to be received, heard, ordered, and determined in the Court of Star Chamber within our realm of England.

[VI.] And [we] do also authorise and give full power unto you or three of you [quorum as before] to award all ordinary process as well upon all the said bills which be exhibited for any the causes or offences aforesaid as also upon all contempts to be committed in any of the said matters in like manner as is used in our Court of Star Chamber within our realm of England, the manner and form whereof we have hereunto caused to be annexed[1].

[VII.] And we do also give unto you or any three of you [quorum as before] full power together with any such your associates as afore is said or the more number of them to call and command before you into the said Court by all means and ways that you shall see to be expedient all the misdoers and offenders that shall so be complained upon, and to proceed to the examination, discussion and determination of the said disorders [&c.] in the same manner and order as in our said Court of the Star Chamber here in England is used, and such as you shall find to be in fault to punish by fines to our use, imprisonment and otherwise after their demerits and according to your discretions: and also to tax and sess to our use amercements, fines and penalties for defaults to be made by non-appearance, departures from the Court without licence or other defaults or disobediences of the sheriffs whatsover to be committed within that Court or against the authority of the same, and for the levying thereof to award process in like manner as is used for the having or obtaining of any of our debts or duties within our said realm of England, and the same to be to the use of us,

[1] These instructions do not appear upon the roll.

our heirs and successors, and to be accounted for in such manner as other the perquisites or forfeitures of other our Courts within our said realm of Ireland be or shall be accounted for.

[VIII.] And we do by authority of our royal prerogative grant and declare that all judgments, taxations, decrees and orders that shall be given, made and taken by you or any three of you [quorum as before] together with any your associates so to be assembled as aforesaid, shall be of the like force . . . and effect against the party or parties as any the judgments [&c.] given [&c.] in the Court of the Star Chamber within our realm of England are or ought to be.

[IX.] And also we do will and order that the Lord Deputy Lieutenant Justice or Justices of our said realm of Ireland for the time being shall from time to time at his or their will and pleasure come . . . into our said Court of Castle Chamber and during his or their presence in the same shall have in our behalf the full power of chief head and principal justiciar and determiner, and shall be the chief head and principal judge in and of all such matters and causes as shall be in the same Court proponed, debated or controversed, any thing in these our letters of commission to the contrary notwithstanding.

[X.] And therefore we do by tenor hereof will and command you that you and every of you shall with all earnest diligence two days in the week in the four term-times of the year as is aforesaid give your attendance in and about the due and full execution of the premisses in manner aforesaid.

[XI.] And we do also give in strait charge and commandment to all our faithful subjects to whom it shall appertain, of what estate . . . so ever they shall be . . . , that they shall be obedient . . . unto you and to such final orders and judgments as touching the premisses shall be from time to time had and taken by you as shall appertain, as they will eschew our high indignation and will answer for the contrary at their extreme perils.

Witness our self at Westminster the fifteenth day of April in the [blank] year of our reign.

Patent Roll (de diversis annis), Eliz. No. 1606.

V.—MILITARY SYSTEM.

1. Commission of Lieutenancy.

Elizabeth by the grace of God, [&c.] to our right trusty and right well-beloved A. B. &c. greeting. Know ye that, for the great and singular trust and confidence we have in your approved fidelity, wisdom and circumspection, we have assigned . . . you to be our Lieutenant within our counties of N. and F. and all the cities, towns and liberties within the precincts of the said counties or of either of them; and by these presents do give power and authority unto you, that you from time to time may levy, gather and call together all our subjects, of what estate, degree or dignity they be, dwelling within our said counties [&c.], meet and apt for the wars, and them to try, array and put in readiness, and them also after their abilities, degrees and faculties well and sufficiently to cause to be armed and weaponed, and to take the musters of them from time to time in places most meet for that purpose after your good discretion: and also the same our subjects so arrayed, tried and armed, as well men of arms as other horsemen, archers and footmen of all kinds and degrees meet and apt for the wars, to conduct and lead as well against all our enemies as also against all rebels, traitors and other offenders and their adherents . . . within our said counties [&c.] from time to time as often as need shall require by your discretion: and with the said enemies [&c.] to fight and them to invade, resist, repress and subdue, slay, kill and put to execution of death by all ways and means . . . : and to do all other things which shall be requisite for the levying and government of our said subjects, conservation of our person and peace, so by you in form aforesaid levied and to be led[1]: and to execute against the said enemies [&c.] as necessity shall require by your discretion the law called the marshall [sic] law according to the law martial [sic]: and of such offenders apprehended or being brought in subjection, to save whom you shall think good to be saved, and to . . . put to execution of death such and so many of them as you shall think meet by your said discretion to be put to death.

[1] The order of words appears here to be transposed by mistake.

And further we do give unto you full power and authority that in case any invasion of our enemies, insurrection, rebellion, riots, routs or unlawful assemblies or any other like offences shall happen to be moved in any place of this our realm out of the limits of this our commission, that then and as often as you shall perceive any such misdemeanour to arise, you, with all the power you can make, shall with all diligence repair to the place where any such invasion, unlawful assembly or insurrection shall happen to be made, to subdue . . . the same as well by battle or other kind of force as otherwise by the laws of our realm and the law martial according to your discretion.

And further we give unto you full power for the execution of this our commission to appoint in our said counties [&c.] muster-masters, and one provost-marshall, to execute the martial law in case of any invasion or rebellion in conducting any numbers of men of war against the said invaders [&c].

Wherefore we will and command you, our said Lieutenant, that with all diligence ye do execute the premisses with effect: and forasmuch as it may be that there shall be just cause, as now there is, for divers of you to be attendant upon our person or to be otherwise employed in our service, whereby this our service in our said counties of N. and F. committed to your fidelity cannot be by you in person executed in such sort as we have appointed the same; therefore we give unto you for your better aid and assistance and for the better performance and execution of the same our service, full power to appoint . . . by your writing under your hand and seal such gentlemen resident within every of the said counties [&c.] as [are] here underwritten and named to be your deputies in this said service in our said several counties [&c.]: and by this our present commission we give unto them so by you appointed . . . full power in your absence to do in our said counties of N. and F. [&c.] all things before by this our commission appointed by you to be done. And our further pleasure . . . is that your said deputies, immediately after your letters of deputation to them made as is aforesaid, take care to see every point of this our commission as fully and perfectly executed in your absence as you yourself ought to have done it if you had been present;

and the better to enable them so to do, our pleasure is that immediately after such deputation made as aforesaid you shall deliver unto them a true transcript of this our commission subscribed with your hand. And whatsoever you alone being present or in your absence your said deputies shall do by virtue of this our commission . . . touching the execution of the premisses shall be discharged in that behalf against us, our heirs and successors.

And further we will and command all our justices of peace . . . and all other our officers, ministers and subjects meet and apt for the wars within our said counties [&c.] to whom it shall appertain, that they with their power and servants from time to time shall be attendant . . . and at the commandment as well of you as of your said deputies in the execution hereof, as they tender our pleasure and will answer to the contrary at their uttermost peril.

At Westminster the 15th day of June, in the twenty-seventh year of our reign. *Patent Roll (de diversis annis), Eliz.* (No. 1606).

2. Commission of array.

Commissio specialis ad homines ad arma habiles arraiandos.

Regina &c. predilectis et fidelibus suis A. B. C. D. et E. salutem. Sciatis quod nos, de approbatis fidelitatibus et providentibus circumspectionibus vestris plurimum confidentes, assignavimus et constituimus vos commissionarios et deputatos nostros, dantes et concedentes vobis et tribus et duobus vestrum tenore praesentium plenam et absolutam potestatem et auctoritatem omnes et singulos homines ad arma ac homines habiles ad arma ferendum, tam equites quam pedites et sagittarios et sclopettarios, supra aetatem sexdecim annorum ac infra aetatem sexaginta, in civitate vel villa nostra de S., tam infra libertates quam extra, arraiandum, inspiciendum et triandum, ac armari et muniri faciendum, necnon assignandum equos, arma et cetera bellica instrumenta consequentia habilitati et personae uniuscuiusque, secundum formam et effectum statutorum et ordinacionum ante haec tempora inde editorum provisorum: ac omnibus illis tironibus hominibusque imbellibus et rei militaris ignaris erudiendum, instruendum et exercendum ad usum praedictorum equorum, armorum et bellicorum apparatuum

secundum artem militarem, ac diligenter omnia et singula alia faciendum, gerendum et expediendum et fieri causandum quae ad dilectum, monstrationem et inspectionem ac etiam ad eruditionem, instructionem et exercitationem subditorum nostrorum in re militari pro meliori servitio nostro et defensione huius regni nostri maxime consentanea et opportuna fore putaveritis: ita quod iidem homines ad arma et homines habiles ad arma ferendum, equites, pedites, sagittarii et sclopettarii ac alii praedicti homines defensibiles sic arraiati, inspecti et muniti prompti sint et parati ad serviendum nobis quotiens et quando necesse fuerit. Assignavimus insuper quoscunque tres aut duos vestrum ad omnes et singulos vestrum non existentes dominos vel pares regni nostri aut consiliarios in privato consilio nostro similiter mutuo et de invicem inspiciendum, triandum et arraiandum ac in armis et equis bellico apparatui idoneis ordinandum et videndum; ita quod omnes et singuli vestrum in forma praedicta ut praedicitur inspecti, arraiati et parati prompti sint et sitis et continue parati ad nobis similiter ut praedictum est serviendum. Et ideo vobis mandamus quod circa praemissa diligenter intendatis ac ea omnia et singula ad certos dies et loca de tempore in tempus per vestras discretiones exequamini in forma praedicta. Damus praeterea universis et singulis officiariis, ministris et subditis nostris quibuscunque tam infra libertates quam extra tenore praesentium firmiter in mandatis quod vobis et cuilibet vestrum in executione praemissorum intendentes, auxiliantes et obedientes sint in omnibus diligenter. Et quod feceritis in praemissis, una cum nominibus, cognominibus ac numero tam equitum, peditum, sagittariorum et sclopettariorum ac omnium armorum et bellicorum instrumentorum ceterorumque bello idoneorum per vos in forma praedicta inspectorum et armatorum, quam parochiarum et wardorum in quibus habitant, ac de diversitate armaturae et instrumentorum bellicorum quibus unusquisque eorum armatus et paratus est, nos et consilium nostrum circa personam nostram attendentem quam citissime poteritis post datum praesentium in scriptis sub sigillis vestris vel trium aut duorum vestrum manibus vestris subscriptis debite certificetis. Damus ulterius firmiter in mandatis quod pro meliore expeditione et executione praesentium per omnia

et in singulis faciatis tam secundum tenorem articulorum et instructionum hiis praesentibus annexorum quam aliorum quorumcunque articulorum et instructionum quae per privatum consilium nostrum cum opus fuerit vel per sex eorum in scriptis manibus suis signatis aliquo tempore posthac vobis dirigentur.

Apud Westm. primo die Septembr. [No year.]

Pat. Roll. (*de diversis annis*) *Eliz.* (No. 1606).

3. Commission of muster.

M[emorandum] for men in Stafford III cent., in Warwickshire II cent., in Shropshire II cent.: XXVth of September, 1559.

To my Lord Stafford, to my Lord Robert and Sir Ambrose Cave, to my Lord Williams.

Right trusty and well-beloved, we greet you well. And whereas we have heretofore addressed our letters amongst others for the musters to be taken within that our county of [blank], by force whereof our subjects of the same be, as we are informed, in a readiness to be employed as we shall command, we let you wit that our pleasure is you shall forthwith upon the receipt hereof cause to be levied, mustered and chosen out of the whole body of our said county the number of [blank] able men for the wars to serve on foot harnessed, weaponed and furnished as appertaineth, and the same to put in order to appoint and allot to the leading of [blank] such able gentlemen of inheritance of that our county, as for their aptness and skill you shall think good to commit such a charge unto, requiring you to use such diligence herein as your said men with their captains may be in a readiness furnished as before is limited with as much speed as may be, and so to remain ready as upon one hour's warning hereafter to be given unto them they may set forward towards our town of Berwick, and in the mean time we will that you shall advertise us or our council before the 20th of October next at the furthest what you shall have done herein and in what forwardness your said men shall be, to the end that thereupon we may give order for money to be sent unto you for their coats and conduct accordingly.

And these our letters, &c.

Given &c. at our Honour of Hampton Court, &c.

State Papers (*Domestic*), *Elizabeth*, VI. 51.

4. Circular letter for light horsemen.

Mr Secretary's warrant for stamping of certain letters.

Elizabeth, by the grace of God [&c.], To our trusty and right well beloved Councillor, Sir William Cecil, Knight, our principal Secretary. Forasmuch as we have by advice of our council resolved and accorded to direct our letters under our signet being in your custody to sundry knights, esquires and others of ability in diverse shires of our realm, for to command them to put in order and furniture certain horsemen . . . as more at large may appear by the tenour of our said letters, the copy whereof . . . hereafter also followeth, We . . . have adjudged necessary that . . . the number hereafter following shall be by you . . . signed with our stamp . . . and afterward shall be sealed with our signet, and so expedited for our more speedy service . . .

The tenour of the letter.

Trusty and well beloved, we greet you well. Forasmuch as we have necessary occasion to levy certain numbers of horsemen to serve us in the north parts of our realm, as well for demi-lances as for light horsemen, wherein we are to require, as reason is, the aid of our good and faithful subjects in sundry shires of our realm; having well considered the ability of such persons as do remain or have their possessions in that shire, meet for that purpose, with assurance also of their good wills to serve us and our crown, we have made choice of you, and require and therewith also charge you that with all speed possible you put in a readiness one able man and a horse or able gelding fully furnished with armour, weapon and all other things requisite to serve in the wars as a demi-lance or light horseman; and the same to send away in company with others in that shire in such sort as, accounting the distance of the place from whence he shall depart, he may be in good and serviceable sort at our city of York before the first or fourth day of April next; and there shall be paid unto him money for his coat and conduct. And we assure you that the horse and armour, after service done, shall be safely returned unto you, if in service the same perish not, or that the fault be not in the horseman himself. And for further instruction how you shall arm and

apparel the said horseman, you shall receive knowledge of our lieutenant in that county, or of such others that have charge there for that purpose, whose directions we require you to follow.

Given under our signet at our Honour of Hampton Court, the 10th day of March, 1569. *Burleigh Papers*, I. p. 578.

5. Letter to a Bishop for light horsemen[1].

Right reverend father in God, right trusty and well-beloved, we greet you well. Whereas we think it convenient and needful for our service and the defence of our realm to have a certain number of horsemen put in a readiness, some to serve as demi-lances and some as light horsemen, and therefore not doubting but that you, as one specially careful of our service and of this your native country, not only will show yourself ready to advance this service as much as in you may lie and willingly provide and have in a readiness such men, horse and armour well appointed as we thought meet to be taxed and set upon you, but also do your best endeavour to see that others of the clergy within your diocese (whose names are contained in a schedule hereinclosed signed by one of our principal secretaries) shall do the like according as is rated upon everyone in the said schedule; Our will and pleasure is that you do not only for your part provide and have in a readiness to be set forward upon an hour's warning for our service as occasion shall require two men with horse to serve as demi-lances and two men to serve for light horsemen well and sufficiently appointed and furnished of everything thereto appertaining, but also forthwith in our name cause the parties mentioned in the said schedule to do the like according to their rate: and, in case any of the said parties be not resident in your diocese, then to signify the same to them by your letters, taking order also that such as cannot speedily provide themselves of men, horse and such other furniture as is needful and as they are appointed and rated to do, that then they do allow and contribute for every demi-lance they are rated at £30, and for every light horse £20, which money our pleasure is ye shall cause to be delivered to the hands of such commissioners as by letters from our Privy Council shall be named unto you, to be employed for our service

[1] In the Calendar of State Papers conjecturally dated March, 1573.

as shall be by them appointed. And if any of them shall so forget themselves as they shall deny to furnish the premisses, then we will you to certify [to] us or our Privy Council the names of them, binding them nevertheless to appear before our said Privy Council within [blank] days after their refusal, willing and requiring you further, as you tender our service and according to the good opinion we have conceived of you, to use all diligence as well in the putting in a readiness of that which we here require you as also in the procuring that the rest mentioned in the said schedule may do the like, so as by your and their slackness our service be not hindered, &c.

Warrant-book, Elizabeth and James, I. p. 1.

6. Writ for view of arms to be provided by the clergy.

The Privy Council to the Archbishop of Canterbury.

After our very hearty commendations to your good Lordship. Whereas there hath been order given by her Majesty's direction for several musters and views to be made of all the able men with their armour and furniture, within the several counties of the realm . . . we have thought good to desire your Lordship, with some diligence to write your letters to all the Bishops, to send forthwith unto you the particular certificate of the horses and foot armed and furnished by the clergy in their several dioceses, whereof we pray your Lordship there may be no default . . . When your Lordship shall have received the certificates, we pray you to send them unto us. [Dated Oct. 11, 1590.] *Strype, Whitgift,* II. pp. 65, 66.

7. View of arms to be provided by the clergy.

The Archbishop of Canterbury to the Bishop of London.

After my hearty commendations [&c.] I have of late received, as your Lordship knoweth, commandment from the Queen's Highness and her honourable Privy Council to take order for a certain view to be had and with speed certified of armour to be provided by the clergy of the province of Canterbury; these are to will and require your Lordship to give order as well to the clergy of your own diocese for the ready performance of the

same, as also to signify the said commandment to the residue of my brethren, the other bishops of my province of Canterbury, willing them . . . forthwith to accomplish her Highness' said commandment . . . and the same view . . . speedily to certify unto me . . . [dated Lambeth, May 6, 1569].

Whereas the lords of the Queen's Majesty's most honourable Privy Council have given commandment for the provision of armour and other furniture by the clergy of this realm, according to such order and rates as was used in the time of the late King Philip and Queen Mary, the several rates and orders then used in that behalf are hereafter particularly specified; videlicet,

That every one of the clergy having lands or possessions of estate of inheritage of freehold shall provide . . . armour, horses and other furniture in such sort as every temporal man is charged by reason of his lands and possessions by virtue of the statute[1] made in the fourth and fifth years of the reigns of the late King Philip and Queen Mary.

Item, That every one of the said clergy having benefits, spiritual promotions or pensions, the clear value whereof . . . do amount to the clear yearly value of £30 or upwards, shall be bound to provide . . . armour and other provision requisite, according to such proportion and rate, as the temporalty are bound by the said statute by reason of their moveable goods.

Item, If any of the clergy of this realm have both temporal lands and possessions and also spiritual promotions, he shall be charged with armour and other provision according to the greatest rate of one of them, and not with both.

Strype, Parker, I. p. 542; *Reg. Parker*, I. p. 278 (a), *in Cardwell, Doc. Annals*, I. p. 312.

Observations[2] *in rating the proportion of armour.*

I. The bishop to rate himself among the temporalty for lands.

II. To rate the dean and prebendaries, as the temporalty, for goods from £30 upwards.

III. Item, to rate the whole diocese in like sort.

[1] 4 & 5 P. & M. 2. §§ 2, 3.
[2] Added by the Archbishop (*Strype, Parker*, I. 542a).

IV. Item, to account such as be resident within the diocese under the sum of £30 and yet having benefices or pensions elsewhere to make up the same sum or upwards, to be rated there among the supplies.

V. Item, to rate every incumbent where he is resident, and every ordinary chaplain not resident in the diocese where he serveth.

. . . This following was the way propounded of laying the charge of armour on the clergy:—

		Corslets.	Almain Rivets.	Pikes.	Long Bows.	Sheaves of Arrows.	Steel Caps, or Skulls.	Black Bills, or Halberds.	Harquebuts.
They that had an annual income of	£200 were £100 rated	1	2	1	2	2	2		1
	£100 rated	1	1	1	2	2	2		
	£40 to £30 find		2		1	1	1	1	
			1		2	2	2	1	

The archbishop taxed himself at six horse with armour; ten light horse with their furniture; forty corslets; forty Almain rivets; forty pikes; thirty long bows; thirty sheaves of arrows; thirty steel caps; twenty black bills; twenty harquebuts; and twenty morions. *Strype, Parker*, I. p. 543[1].

8. Appointment of an Admiral, 1599.

Elizabeth, &c. to all to whom these, &c. greeting.

Forasmuch as there is just and necessary cause given us to set forth to the seas in warlike manner our navy, compounded as well of a certain number of our own ships as of others convenient for the defence of our realms and subjects against such attempts or invasions as the preparations of our enemies do give us reason to conceive that they intend to execute upon some part of our dominions, we have been therefore moved to bethink our self of some meet person, both for his degree and experience in like marine services, to whom we might commit so great a charge as the government of our said navy and subjects of all sorts therein serving: and upon due considera-

[1] Cp. assessment of 1586, *Str. Ann.* V. p. 590; order for view of arms, *Str. Whitg.* II. p. 65. The table appears to be not quite correct.

tion of the fidelity, valour and sufficiency of our right trusty and well-beloved Thomas Lord Howard, baron of Walden, knight of our honourable order of the garter, we have made choice of him to commit so great a trust and charge unto.

Know ye therefore that for those respects we do by these presents name and depute the said Thomas to be our Lieutenant and Captain General, leader, governor and admiral of our said navy and forces therein serving which we have set to the seas for the defence of our realms and people against the Spaniard . . . Giving and granting to the said Thomas our full power and authority over all our subjects of what state or condition soever in our said navy and army retained and for this our service committed to his charge, to arm, muster and command for the defence of our realms and subjects and in resistance of the Spaniards and their adherents or any others attempting the invasion or annoyance of our dominions and subjects . . .

Giving also and granting to the said Thomas full power and authority all . . . causes, quarrels, questions and matters whatsoever our said navy and subjects therein serving any way concerning and [to] the office of Lord Lieutenant and Captain General at the seas by any law or custom belonging, to hear, examine, discuss and determine according to the law martial or any discipline in our navies and armies at sea accustomed; and laws, orders and statutes for the good government of our said navy and army to make and establish, and the same to proclaim and put in execution, and all persons offending against the said laws and ordinances to punish . . . imprison and (when he shall think good) again to discharge and release; and all causes criminal concerning life or member in our said navy happening and all incidents and circumstances the same concerning, to hear, examine and determine, and sentence and judgment thereupon to give and pronounce, or decrees to make and all other things which for the good government of our said navy and army and subjects therein serving may be to do, according to his best discretion and such directions as from us or our Privy Council in our name from time to time he shall receive.

And forasmuch as it may be needed for our service to take up vessels and other materials for the use of our service, we do hereby give full authority to the said Thomas to direct his

warrants to our treasurer of our navy or to his deputy in his absence to make payment of all such sums of money as he the said Thomas shall find necessary to direct him to lay out, in which case the warrant of our said admiral shall be to our said treasurer or his deputy sufficient discharge upon the making of his account . . .

And because it may happen by fight or otherwise that you, our admiral of the forces committed to your charge, may miscarry in this action, which God we hope will prevent, we have thought good, providing for all events, to appoint and authorize in such extremity our servant Sir Walter Raleigh, Captain of our guard and Lieutenant of our county of Cornwall, to take the charge of our said fleet and forces, being now our vice-admiral of the same, and in the meanwhile that he be assistant unto you in all your enterprises . . .

In witness whereof we have caused these our letters to be made patents to continue during our pleasure.

[Dated August 10, 1599.]

Rymer, Fœdera, XVI. p. 380.

VI.—MISCELLANEOUS.

1. The Oath of a Privy Councillor.

You shall swear to be a true and faithful councillor to the Queen's Majesty as one of her Highness' Privy Council. You shall not know or understand of any manner thing to be attempted, done or spoken against her Majesty's person, honour, crown or dignity royal, but you shall let and withstand the same to the uttermost of your power, and either do or cause it to be forthwith revealed either to her Majesty's self or to the rest of her Privy Council. You shall keep secret all matters committed and revealed to you as her Majesty's councillor or that shall be treated of secretly in council. And if any of the same treaties or counsels shall touch any other of the councillors, you shall not reveal the same to him, but shall keep the same until such time as by the consent of her Majesty or of the rest

of the council publication shall be made thereof. You shall not let to give true, plain and faithful counsel at all times, without respect either of the cause or of the person, laying apart all favour, meed, affection and partiality. And you shall to your uttermost bear faith and true allegiance to the Queen's Majesty, her heirs and lawful successors, and shall assist and defend all jurisdictions, preeminences and authorities granted to her Majesty and annexed to her crown against all foreign princes, persons, prelates or potentates, whether by act of parliament or otherwise. And generally in all things you shall do as a faithful and true councillor ought to do to her Majesty. So help you God and the holy contents of this book.

Memorandum that the 12th day of December in the 13th year of the reign of our Sovereign Lady Elizabeth by the grace of God [&c.], I, George Earl of Shrewsbury, have most humbly and obediently taken my corporal oath before God to observe and perform all the contents above written in every respect. In witness whereof I have subscribed my name and put my seal.

G. SHREWSBURY.

State Papers (Domestic), Eliz. lxxxiii. p. 33.

2. DUTIES OF A SECRETARY[1].

Titles of matters whereof I am charged to have regard as a Councillor and Secretary.

First to inform myself of all treaties with foreign princes, France, Burgundy, and the Low Countries, Spain, Scotland, Denmark and the Hanses, &c.

To be acquainted with the particular actions and negotiations of ambassadors to her Majesty and from her.

To inform myself of the power and form of proceeding at the council of the Marches in Wales and the council in the North, and to understand the manner of the Warden's government.

To be well informed of the state of Ireland, both the yearly charge of the army and the extraordinary, the state of revenue there, and the state of the Undertakers.

The charge of the Low Country wars, the charges of the

[1] Probably by Dr John Herbert, appointed second Secretary about this time (Note in Calendar of State Papers, p. 426).

French King, the state of their debts to the Queen, what the assurances are, and where they are.

To oversee the order of the Council-book and Muster-book of the realm.

To have the custody of letters from foreign princes to the Queen, and answers made to them.

To have care to the intelligences abroad.

Memorandum: That all causes to be treated on in council and resolved are either only for her Majesty, or betwixt party and party, or betwixt some party (either subject or stranger) and the Queen's Majesty.

The first doth handle principally questions and consultations of State, growing from foreign advertisements, or some extraordinary accidents within the realm.

The second (between party and party) are very seldom heard particularly, but rather ended by overruling an obstinate person, who is made to acknowledge his fault, or else the parties are remitted to some court of justice or equity, or recommended by some letters to some justices in the country to compound the differences either by consent of the parties or by direction. Or if the cause be great, then to write letters to some principal persons to have some circumstances better understood and examined, concerning matter of fact, whereof the council cannot be so well informed, when they have only the suggestions of one party against another, upon which report it often happeneth that quarrels and differences are taken up by the council, when it appears clearly who is in default.

When there is anything in question wherein the Queen is a party, it is commonly either by the breach of peace or for some other title.

If there be breach of peace the lords do either punish the offender by commitment, or do refer the matter to be further proceeded in the Star-Chamber, where great riots and contempts are punished.

If it be matter of title, then the lords refer it to the Queen's learned counsel, and recommend the same to the judges' care.

If there be some suits to the Queen of poor men, then do the lords endorse their petitions with their opinions and

recommend the dispatch to the Secretary, or for the poorer sort to the Master of the Requests.

[Dated] April 26, 1600.

State Papers (Domestic), Eliz. cclxxiv. p. 118.

3. Censorship of the Press.

(a) *Star-Chamber Ordinance*, 1566.

I. That no person should print . . . or bring . . . into the realm printed any book against the force and meaning of any ordinance . . . contained in any the statutes or laws of this realm or in any injunctions, letters patents or ordinances set forth by the Queen's authority.

II. That whosoever should offend against the said ordinances should forfeit all such books, and from thenceforth should never exercise . . . the feat of printing; and to sustain three months' imprisonment.

III. That no person should sell, bind or sew any such books, upon pain to forfeit all such books and for every book 20*s.*

IV. That all books so forfeited should be brought into Stationers' Hall, . . . and all the books so to be forfeited to be destroyed or made waste paper.

V. That it should be lawful for the wardens of the [Stationers'] Company . . . to make search in all workhouses, shops . . . and other places of printers, booksellers and such as bring books into the realm . . .; and all books to be found against the said ordinances to seize and carry to the Hall to the uses abovesaid and to bring the persons offending before the Queen's Commissioners in causes ecclesiastical.

VI. Every stationer, printer, bookseller . . . should . . . enter into several recognizances of reasonable sums of money to her Majesty . . . that he should truly observe all the said ordinances . . .

Upon the consideration before expressed and upon the motion of the Commissioners, we of the Privy Council have agreed this to be observed and kept . . . At the Star-Chamber the 29th of June, 1566 . . .

N. Bacon, C. S. Winchester. R. Leicester. E. Clynton.
E. Rogers. F. Knollys. Ambr. Cave. W. Cecyl.

We[1] underwrit think these ordinances meet and necessary to be decreed and observed.

MATTHUE CANTUAR.	AMBR. CAVE.	THO. YALE.
EDM. LONDON.	DAVID LEWIS.	ROB. WESTON.
		T. HUYCKE.

Strype, Parker, I. pp. 442-3.

(b) *Star-Chamber Ordinance, June*, 1586.

The new decrees of the Star-Chamber for orders in printing, vicesimo tertio die Junii, A.D. 1586.

Whereas sundry decrees and ordinances have upon grave advice and deliberation been heretofore made and published for the repressing of such great enormities and abuses as of late more than in time past have been commonly used and practised by divers contentious and disorderly persons professing the art or mystery of printing or selling of books, and yet notwithstanding the said abuses and enormities are nothing abated, but, as it is found by experience, do rather daily more and more increase to the wilful and manifest breach and contempt of the said ordinances and decrees, to the great displeasure and offence of the Queen's most excellent Majesty, by reason whereof sundry intolerable offences, troubles and disturbances have happened as well in the church as in the civil government of the state and commonwealth of this realm, which seem to have grown because the pains and penalties contained and set down in the said ordinances and decrees have been too light and small for the correction and punishment of so grievous and heinous offences, and so the offenders and malefactors in that behalf have not been so severely punished as the quality of their offences have deserved. Her Majesty therefore, of her most godly and gracious disposition, being careful that speedy and due reformation be had of the abuses and disorders aforesaid, and that all persons using or professing the art, trade or mystery of printing or selling of books should from henceforth be ruled and directed therein by some certain and known rules and ordinances, which should be inviolably kept and observed and the breakers and offenders of the same to be severely and sharply punished

[1] Members of the High Commission.

and corrected, hath straitly charged and required the most reverend [father] in God the Archbishop of Canterbury and the right honourable the lords and others of her Highness' Privy Council to see her Majesty's said most gracious and godly intention and purpose to be duly and effectually executed and accomplished.

Whereupon the said most reverend father and the whole presence sitting in this honourable court, this 23rd day of June in the 28th year of her Majesty's reign, upon grave and mature deliberation, have ordained and decreed that the ordinances, constitutions, rules and articles hereafter following from henceforth by all persons be duly and inviolably kept and observed, according to the tenor, purport and true intent and meaning of the same, as they tender her Majesty's high displeasure and as they will answer to the contrary at their uttermost peril: viz.

1. Imprimis, That every printer and other person ... which at this time present hath erected or set up or hereafter shall erect ... any printing-press, rowle or other instrument for imprinting of books, charts, ballads, portraitures, paper called damask paper, or any such matter or things whatsoever, shall bring a true note or certificate of the said presses [&c.] already erected, within ten days next coming after the publication hereof, and of the said presses [&c.] hereafter to be erected ... within ten days next after the erecting thereof, unto the Master and Wardens of the Company of Stationers of the City of London for the time being, upon pain that every person failing or offending herein shall have all the said presses [&c.] utterly defaced and made unserviceable for imprinting for ever, and shall also suffer twelve months' imprisonment without bail or mainprise.

2. Item, That no printer of books nor any other erson shall set up any press ... but only in the city of London or in the suburbs thereof, and except one press in the University of Cambridge and one other press in the University of Oxford, and no more; and that no person shall hereafter erect in any secret or obscure corner or place any such press, but that the same shall be in such open place or places in his or their house or houses as the Wardens of the said Company of the Stationers

. . . may from time to time have ready access unto, to search for and view the same; and that no printer or other person shall at any time hereafter withstand or make resistance to any such view or search, nor deny or keep secret any such press: upon pain that every person offending in anything contrary to this article shall have all the said presses defaced and made unserviceable for imprinting for ever, and shall also suffer imprisonment one whole year, and be disabled for ever to keep any printing-press or to be master of any printing-house or to have any benefit thereby other than only work as a journeyman for wages.

3. Item, That no printer nor other person that hath set up any press within six months last past shall hereafter use the same, nor any person shall hereafter erect any press till the excessive multitude of printers . . . be abated . . . or otherwise brought to so small a number of masters or owners of printing houses, being of ability and good behaviour, as the Archbishop of Canterbury and Bishop of London for the time being shall thereupon think it requisite and convenient, for the good service of the realm, to have some more presses erected and set up. And that when and as often as the said archbishop and bishop shall so think it requisite and convenient and shall signify the same to the said Master and Wardens of the said Company of Stationers . . ., the said Master and Wardens shall . . . call the assistants of the said company before them and shall make choice of one or more . . . of such persons being free stationers as . . . shall be thought . . . meet to have the charge of a press, and . . . shall present [them] before the High Com missioners in causes ecclesiastical, or six or more of them, whereof the Archbishop of Canterbury and Bishop of London to be one, to admit every such person so chosen and presented to be master of a press . . . upon pain [as in previous §]. Provided that this article shall not extend to the office of the Queen's Majesty's printer for the service of the realm, but that the said office and officer shall be at the pleasure and disposition of her Majesty . . .

4. Item, That no person shall imprint . . . any book . . . or thing whatsoever, except the same book . . . or any other thing . . . shall be allowed . . . according to the order appointed by the

Queen's Majesty's injunctions[1], and be first seen and perused by the Archbishop of Canterbury and Bishop of London for the time being, or one of them (the Queen's Majesty's printer ... and such as are privileged to print the books of the common law of this realm, for such of the same books as shall be allowed of by the two Chief Justices and Chief Baron for the time being or any two of them, only excepted), nor shall imprint any book against the form or meaning of any restraint or ordinance contained in any statute or laws of this realm [&c., as in ordinance of 1566, §§ I, II, with increased penalties].

5. [As in § III, ordin. 1566, with increased penalties.]

6. That it shall be lawful for the Wardens of the said company ... to make search ... and all books contrary to the intent of these ordinances to stay and take to her Majesty's use, ... and the parties offending ... to bring before the said High Commissioners or some three or more of them, whereof the said Archbishop of Canterbury or Bishop of London for the time being to be one ...

7. [The Wardens to destroy all plant belonging to offending parties.]

8. Item, That for the avoiding of the excessive number of printers within this realm, it shall not be lawful for any person being free of the Company of Stationers, or using the trade or mystery of printing, bookselling or bookbinding, to have at one time any greater number of apprentices than shall be hereafter expressed ... Provided always that this ordinance shall not extend to the Queen's Majesty's printer ..., but that he have liberty to keep apprentices to the number of six at any one time.

9. Item, That none of the printers in Cambridge or Oxford for the time being shall be suffered to have any more apprentices than one at one time at the most: but it shall be lawful for the said printers and their successors to use the help of any journeyman being freeman of the city of London without contradiction ... *State Papers (Domestic), Eliz.* cxc. p. 48[2].

[1] See below, Injunctions, § LI. (p. 188).

[2] Partly printed by Strype, *Whitgift*, III. pp. 160-165.

4. Manumission of Villains.

De Commissione ad manumittendum.

Elizabeth, by the grace of God, &c., to our right trusty and well-beloved counsellor Sir William Cecil . . . and to our trusty and right well-beloved counsellor Sir Walter Mildmay . . . greeting. Whereas divers and sundry of our poor faithful and loyal subjects, being born bond in blood and regardant to divers and sundry our manors and possessions within our realm of England, have made humble suit unto us to be manumised, enfranchised and made free, with their children and sequels . . . We therefore . . . do name and appoint you two our commissioners . . . and do commit . . . unto you full power to accept . . . to be manumised, enfranchised and made free, such and so many of our bondmen and bondwomen in blood with all their children and sequels, their goods, lands, tenements and hereditaments as are now appertaining or regardant to any of our manors, lands [&c.] within the said several counties of Cornwall, Devon, Somerset and Gloucester, as to you shall seem meet, compounding with them for such reasonable fines or sums of money . . . for the manumission . . . as you and they can agree: . . . the tenour of which said manumissions [&c.] shall be in such order and form as is here in these presents contained . . .

Elizabetha, Dei gratia [&c.], omnibus ad quos &c. salutem. Cum ab initio omnes homines natura liberos creavit Deus, ut postea jus gentium quosdam sub jugo servitutis constituit, pium fore credimus et Deo acceptabile christianaeque charitati consentaneum certos, in villenagio nobis, haeredibus et successoribus nostris subjectos et servitute devinctos, liberos penitus facere:

Sciatis igitur quod nos, pietate moti . . . A. B. C. D. &c., et omnes et singulas sequelas tam procreatas et imposterum procreandas et eorum quemlibet, manumisimus et liberos fecimus et ab omni jugo servitutis et servilis conditionis liberamus et exoneramus in perpetuum . . . Damus etiam et . . . concedimus praefatis A. B. C. D. &c. messuagia, terras [&c.], necnon bona, catalla et debita sua quaecumque . . . quibus seisiti seu possessionati jam existunt . . . habendum, tenendum et gaudendum . . . imperpetuum . . . absque compoto seu aliquo alio proinde nobis

. . . reddendo ratione servitutis seu servilis conditionis . . . salvis tamen nobis . . . tam liberis tenuris et haereditamentis nostris custumiarum terrarum et tenementorum de quibus illi . . . seisiti existunt . . . per copiam curiae, et servitiis, redditibus [&c.] pro eisdem solvendis vel faciendis, quam redditibus et servitiis nobis tanquam capitali dominae feodi reddendis pro aliquibus terris [&c.] liberae tenurae de quibus ipsi seisiti existunt.

In cujus rei &c.

. . . And our further will and pleasure is . . . that every such bill or warrant . . . so by you subscribed, shall be a sufficient and immediate warrant to the said Lord Chancellor . . . for the making and passing of every such manumission . . . under our said Great Seal . . . paying only for all manner of fee at the Great Seal 26*s.* 8*d.*

Witness ourself at Gorhambury [April 3, a.r. 16]. Per ipsam Reginam. *Pat. Roll (de diversis annis) Eliz.* No. 1606: *also in Rymer, Fœdera,* XV. p. 731.

VII.—EXTRACTS FROM POLITICAL WRITERS.

1. Staunford.

Praerogativa Regis.

Prerogative[1] is as much as to say a privilege or preeminence that any person hath before another, which, as it is tolerable in some, so it is most to be permitted and allowed in a prince or sovereign governor of a realm. For besides that, that he is the most excellent and worthiest part or member of the body of the commonwealth[2], so is he also, through his good governance, the preserver, nourisher and defender of all the people, being the rest of the same body . . . For which cause the laws do attribute unto him all honour, dignity, prerogative and

[1] These are the opening sentences of a commentary on the so-called statute entitled 'Praerogativa Regis,' said to have been published in the seventeenth year of Edward II: on which, cf. Professor Maitland, *E. H. Review,* vi. 367.

[2] The original has 'the comon body of the welth.'

preeminence; which prerogative doth not only extend to his own person, but also to all other his possessions, goods and chattels. As that his person shall be subject to no man's suit, his possessions cannot be taken from him by any violence or wrongful disseisin, his goods and chattels are under no tribute, toll nor custom, nor otherwise distrainable; with an infinite number of prerogatives more, which were too tedious here to recite . . . *Staunford's 'Exposition of the King's Prerogative,'* 1567.

2. Camden.

(a) *The Star-Chamber.*

Camera Stellata, sive potius Curia Consilii Regii . . . Haec, si vetustatem spectemus, est antiquissima; si dignitatem honoratissima. Ex quo enim ad reges provocaverint subditi, consiliumque regium institutum fuerit, antiquitatem repetere posse videtur. Iudices vero sunt viri longe honoratissimi, et spectatissimi utique consiliarii regii. Hoc vero nomen Camerae Stellatae accepit, ex quo in camera stellis ornata Westmonasterii hoc consilium fuerit constitutum. Quod iam olim factum, legitur enim in actis publicis Edwardi tertii: *Counseil en la Chambre des Estoielles, pres de la receipte al Westminster.* Verum huius authoritatem prudentissimus princeps Henricus septimus ita parlamentaria authoritate adauxit et constabilivit ut nonnulli primum instituisse falso opinentur. Iudices hic sunt Dominus Cancellarius Angliae, D. Thesaurarius Angliae, Praeses Concilii Regii, D. Custos privati sigilli, et omnes consiliarii status tam ecclesiastici quam laici, et ex Parliamenti baronibus illi, quos princeps advocabit. . . . *Britannia*, ed. 1594, p. 112[1].

(b) *Fifteenths and Tenths, and Subsidies.*

. . . Ordines praeterea temporum felicitati congratulantes . . . concesserunt ecclesiastici unum subsidium, laici itidem alterum cum duabus quindenis et decimis. Quindena et decima (ut in exterorum gratiam adnotem) taxatio certa est, olim imposita singulis civitatibus, burgis, et oppidis non viritim sed generatim pro ratione decimaequintae partis facultatum loco-

[1] The first edition of the *Britannia* was published in 1586.

rum. Subsidium vocamus quod singulis capite censis viritim pro ratione bonorum et agrorum imponitur. Verum nec haec, nec illa taxatio unquam imponitur nisi ex Ordinum consensu in Parlamento. *Annales*, ed. I. 1615, p. 79, s. a. 1563.

(c) *Martial Law.*

Vesanam Petri Burchetti opinionem, qui sibi persuaserat, licitum esse evangelicae veritati adversantes occidere, nescio an memorem. Eo usque hominem huius opinionis error abripuerat, ut Hawkinsum classiarium illum celebrem in publico pugione aggressus sauciarit, ratus Hattonum esse gratia tunc temporis apud Reginam florentem et ab intimis consiliis, quem novatoribus adversari audiverat. Regina ad hoc facinus supra quam solebat ita excanduit, ut in hominem ex jure militari sive castrensi protinus animadverti iusserit; donec a prudentibus fuisset edocta, ius illud non nisi in castris aut temporibus turbulentis adhibendum; domi autem et in pace ex processus iudiciaris formula agendum. *Annales*, ed. I. 1615, p. 242, s. a. 1573.

3. Sir Thomas Smith.

(1) *Classes of the people.*

Of the first part of Gentlemen of England, called *nobilitas major.*

... In England no man is created a baron, except he may dispend of yearly revenue one thousand pounds, or one thousand marks at the least ...

Of the second sort of Gentlemen, which may be called *nobilitas minor*, and first of knights.

No man is a knight by succession, not the king or prince ...: knights therefore be not born but made ... In England whosoever may dispend of his free lands forty pounds sterling of yearly revenue ... may be by the king compelled to take that order and honour, or to pay a fine ...

Of Esquires.

Esquires (which we commonly call squires) be all those which bear arms (as we call them) or armories ... these be taken for

no distinct order of the commonwealth, but do go with the residue of the gentlemen . . .

Of Gentlemen.

Gentlemen be those whom their blood and race doth make noble and known . . . Ordinarily the king doth only make knights and create barons or higher degrees, for as for gentlemen they be made good cheap in England. For whosoever studieth the laws of the realm, who studieth in the Universities, who professeth liberal sciences, and to be short, who can live idly and without manual labour, and will bear the port, charge and countenance of a gentleman, he shall be called master, . . . and shall be taken for a gentleman . . .

Of Yeomen.

Those whom we call yeomen, next unto the nobility, knights and squires, have the greatest charge and doings in the commonwealth . . . I call him a yeoman whom our laws do call *legalem hominem* . . . which is a freeman born English, and may dispend of his own free land in yearly revenue to the sum of 40*s.* sterling . . . This sort of people confess themselves to be no gentlemen . . . and yet they have a certain preeminence and more estimation than labourers and artificers, and commonly live wealthily. . . . These be (for the most part) farmers unto gentlemen, . . . and by these means do come to such wealth, that they are able and daily do buy the lands of unthrifty gentlemen, and after setting their sons to the school at the Universities, to the laws of the realm, or otherwise leaving them sufficient lands whereon they may live without labour, do make their said sons by those means gentlemen . . .

Of the fourth sort of men which do not rule.

The fourth sort or class amongst us, is of those which the old Romans called *capite censi* . . . day labourers, poor husbandmen, yea merchants or retailers which have no free land, copyholders and all artificers . . . These have no voice nor authority in our commonwealth, and no account is made of them, but only to be ruled. *The Commonwealth of England*, ed. 1589, Bk. I. chaps. 17-24[1].

[1] Strype (*Life of Sir T. Smith*, p. 84) says that this book was written in 1565, and first published in 1581.

Of Bondage and Bondmen.

After that we have spoken of all the sorts of freemen, according to the diversity of their estates and persons, it resteth to say somewhat of bondmen . . . The Romans had two kinds of bondmen, the one which were called *servi* . . . all those kind of bondmen be called in our law villains in gross . . . Another they had . . . which they called *adscriptitii glebae* . . . and in our law are called villains regardant . . . Of the first I never knew any in the realm in my time; of the second, so few there be, that it is not almost worth the speaking, but our law doth acknowledge them in both those sorts.

The Commonwealth of England, ed. 1589, Bk. III. chap. 10.

(2) *Parliament and the Sovereign.*

Of the Parliament and the authority thereof.

The most high and absolute power of the realm of England consisteth in the Parliament . . . The Parliament abrogateth old laws, maketh new, giveth order for things past and for things hereafter to be followed, changeth rights and possessions of private men, legitimateth bastards, establisheth forms of religion, altereth weights and measures, giveth forms of succession to the crown, defineth of doubtful rights whereof is no law already made, appointeth subsidies, tailles, taxes and impositions, giveth most free pardons and absolutions, restoreth in blood and name, as the highest court, condemneth or absolveth them whom the prince will put to that trial. And to be short, all that ever the people of Rome might do, either in *centuriatis comitiis* or *tributis*, the same may be done by the Parliament of England, which representeth and hath the power of the whole realm, both the head and the body. For every Englishman is intended to be there present, either in person or by procuration and attorney, . . . from the prince (be he king or queen) to the lowest person of England. And the consent of the parliament is taken to be every man's consent . . .

The Speaker . . . is commonly appointed by the king or queen, though accepted by the assent of the House.

. . . No bill is an Act of Parliament . . . until both the houses

severally have agreed unto it . . . no, nor then neither. But the last day of that parliament or session the prince cometh in person in his parliament robes, and sitteth in his state . . . Then one reads the titles of every Act which hath passed at that session . . . : it is marked there what the prince doth allow, and to such he saith, *Le Roy* or *La Royne le veult* . . . To those which the prince liketh not, *Le Roy* or *La Royne s'advisera*, and those be accounted utterly dashed and of none effect . . .

Of the monarch, King or Queen of England.

The Prince . . . hath absolutely in his power the authority of war, and peace . . . His privy council be chosen also at the prince's pleasure . . . In war time and in the field the prince hath also absolute power . . . : he may put to death or to other bodily punishment whom he shall think so to deserve, without process of law or form of judgment. This hath been sometime used within the realm before any open war, in sudden insurrections and rebellions, but that not allowed of wise and grave men . . . This absolute power is called martial law . . . The prince useth also absolute power in crying and decreeing the money of the realm by his proclamation only . . . The prince useth also to dispense with laws made, whereas equity requireth a moderation to be had, and with pains for transgression of laws . . . The prince giveth all the chief and highest offices or magistracies of the realm . . . All writs, executions and commandments be done in the prince's name . . . The prince hath the wardship and first marriage of all those that hold land of him in chief . . . To be short, the prince is the life, the head and the authority of all things that be done in the realm of England.

The Commonwealth of England, ed. 1589, Bk. II. chaps. 2–4.

(3) *Justices of the Peace.*

. . . The Justices of the Peace be those in whom at this time for the repressing of robbers, thieves and vagabonds, of privy complots and conspiracies, of riots and violences and all other misdemeanours in the commonwealth, the prince putteth his special trust; . . . and generally, as I have said, for the good government of the shire, the prince putteth his confidence in them. *The Commonwealth of England*, ed. 1589, Bk. II. chap. 21.

(4) *Trial by Jury.*

. . . But if they [sc. a Jury] do, as I have said, pronounce not guilty upon the prisoner, against whom manifest witness is brought in, the prisoner escapeth; but the twelve [are] not only rebuked by the judges, but also threatened of punishment; and many times commanded to appear in the Star-Chamber, or before the Privy Council, for the matter . . .

The Commonwealth of England, ed. 1589, Bk. III. chap. 1.

(5) *The Court of Star-Chamber.*

There is yet in England another Court, of the which that I can understand there is not the like in any other country. In the term-time . . . every week once at the least (which is commonly on Fridays and Wednesdays, and the next day after that the term doth end) the Lord Chancellor and the Lords and other of the Privy Council, so many as will, and other Lords and Barons which be not of the Privy Council, and be in the town, and the judges of England, specially the two chief judges, from nine of the clock till it be eleven, do sit in a place which is called the Star-Chamber, either because it is full of windows, or because at the first all the roof thereof was decked with images or stars gilded. There is plaints heard of riots . . .

And further, because such things are not commonly done by the mean men, but such as be of power and force, and be not to be dealt withal of every man, nor of mean gentlemen: if the riot be found and certified to the king's council, or if otherwise it be complained of, the party is sent for, and he must appear in the Star-Chamber . . .: for that is the effect of the court, to bridle such stout noblemen or gentlemen which would offer wrong by force to any manner men, and cannot be content to demand or defend the right by order of law. This court began long before, but took augmentation and authority at that time that Cardinal Wolsey, Archbishop of York, was Chancellor of England, who of some was thought to have first devised that court, because that he, after some intermission by negligence of time, augmented the authority of it . . .

The judges of this court are the Lord Chancellor, the Lord Treasurer, all the King's Majesty's Council, the barons of this

land ... The punishment most usual is imprisonment, pillory or fine, and many times both fine and imprisonment ...

The Commonwealth of England, ed. 1589, Bk. III. chap. 4.

4. Lambard.

The Star-Chamber.

... I do affirm that the King hath a supreme court of prerogative whereunto his subjects in such their necessities may provoke, as to his own royal person, and wherein there is place left for him to sit; the which our kings in person have oftentimes frequented, and were assisted with such men of nobility, wisdom and learning as he shall choose ... and these men thus taken for their counsel and advice we do commonly call the King's Council ... So, howsoever many courts of ordinary resort shall be established by him, yet if either they have not authority to apply remedy for all wrongs and diseases, or that power and authority which they have may not enjoy her free course and passage, then must the King either exercise his preeminent and royal jurisdiction, or else must the injuriously afflicted be deprived of that help and remedy which both the ordinance of God, the duty of a kingly judge, and the common law of nature and reason do afford unto him ... What is then to be said? shall the King and his Council open a court for all sorts of pleas that be determinable by the course of Common Law? That were to set an anomy and to bring disorder, doubt and incertainty over all. Shall no help at all be sought for at the hands of the King, when it cannot be found in the Common Law? that were to stop his ears at the cry of the oppressed, and would draw wrath and punishment from heaven. Between these two extremes ... there lieth a mean that will both uphold the majesty of the King, maintain the authority of the common courts, and succour the distressed client in his greatest necessity ... And this mediocrity is maintainable, not only by reason of the kingly and judicial office, whereof I have sometimes spoken, but also by the meaning of many statutes and by the continual practice of our own kings ...

There remaineth a consideration of that statute made in the third year of King Henry VII ... This statute, as some have

thought, was made for the restraint of that absolute authority which beforetime was exercised by the King's Council: so as after the making thereof they were to take knowledge of these few causes only, and of none others. But I do rather expound it by way of enlargement of their judicial authority; for, insomuch as there is not in it any words prohibitory touching the former manner of proceeding, and the scope of this law is to have those offenders convicted by other means than by order of law as they were before, I gather thereby that the statute giveth an additament of this sort, viz. that, whereas beforetime the King and the Lords of this Council did not admit any complaint but[1] such only as carried within it a reasonable surmise of maintenance of their jurisdiction, . . . now by this statute, over and besides that ancient authority, only three of the Council, viz. the Chancellor, Treasurer, and Keeper of the Privy Seal, using the assistance of some others thereunto appointed, were enabled to hear and determine ordinarily of these eight offences, and that without any manner of such suggestion or surmise at all . . .

This is all that for this time and service I purposed to say of this most noble and praiseworthy court, the beams of whose bright justice, equal in beauty with Hesperus and Lucifer (as Aristotle said in like case), do blaze and spread themselves as far as the realm is long and wide, and by the influence of whose supereminent authority all other courts of law and justice that we have are both the more surely supported and the more evenly kept and managed.

Lambarde's Archeion, ed. 1635, pp. 116–217[2].

5. Crompton.

De Court de Starre Chamber, et matters auant le Counsell le Roy.

Le Court de Starre Chamber est Hault Court, tenus auant le Roy et son Counsell et auters, et ceux que sont sues la, sont appeles per *subpena* dapperer deuant le Roy et son Counsell al jour mention in le brief; a que jour si fait defaut, doncque sur

[1] 'for' in the original.
[2] This work is said to have been written in 1591.

serement pris que la partie fuit seruie oue [avec] le *subpena*, issera attachement; sur que, si soit pris et appere, serra commis al fleete per discretion del Court, et si nest pris sur lattachement, ne luy render, doncque issera proclamation de rebellion, oue commandement de luy prender, a aver son corps auant le Roy et son Counsell al jour mis in le brief . . .

Roigne mesme est per intendment touts foits present icy in person, car le *subpena* que issuit pur garner ascun dapperer in cest Court est *coram nobis et consilio nostro*, et comment que la Roigne ne vient la, uncore entant que sa Counsell est la, est intend que Roigne mesme est la, et ceo que sa Counsell fait icy est aiudge in ley come feazans la Roigne mesme, car ils parle oue sa bouche et sont incorporate a luy.

Crompton, Courte de la Roigne (ed. 1594), pp. 29, 35.

VIII.—ECCLESIASTICAL DOCUMENTS AND EXTRACTS.

1. Documents, &c.

1. *The Queen's Proclamation*, 1558.

By the Queen.

The Queen's Majesty, understanding that there be certain persons, having in times past the office of ministry in the church, which now do purpose to use their former office in preaching and ministry and partly have attempted the same, . . . hath therefore, according to the authority committed to her Highness, for the quiet governance of all manner of her subjects, thought it necessary to charge and command . . . all manner of her subjects, as well those that be called to ministry in the church as all others, that they do forbear to preach or teach or to give audience to any manner of doctrine or preaching other than to the Gospels and Epistles, commonly called the Gospel and Epistle of the day, and to the Ten Commandments in the vulgar tongue, without exposition or addition of any manner sense or meaning to be applied or added; or to use any other manner of public prayer, rite or ceremony in the church, but

that which is already used and by law received, as the Common Litany used at this present in her Majesty's own chapel, and the Lord's Prayer, and the Creed in English; until consultation may be had by parliament, by her Majesty and her three estates of this realm, for the better conciliation and accord of such causes as at this present are moved in matters and ceremonies of religion. The true advancement whereof, to the due honour of Almighty God, the increase of virtue and godliness, with universal charity and concord amongst her people, her Majesty most desireth and meaneth effectually, by all manner of means possible, to procure and to restore to this her realm . . . Given at her Highness' palace at Westminster, the 27th day of December, the first year of her Majesty's reign.

God save the Queen.

Strype's Annals, II. p. 391.

2. *The Queen's Injunctions*, 1559.

Injunctions given by the Queen's Majesty, as well to the clergy as to the laity of this realm.

The Queen's most royal Majesty, by the advice of her most honourable council, intending the advancement of the true honour of Almighty God, . . . doth minister unto her loving subjects these godly injunctions hereafter following . . .

I. The first is, That all deans . . . and all other ecclesiastical persons shall faithfully keep and observe, and, as far as in them may lie, shall cause to be observed and kept of other, all and singular laws and statutes made for the restoring to the crown the ancient jurisdiction over the state ecclesiastical, and abolishing of all foreign power repugnant to the same. And furthermore, all ecclesiastical persons having cure of souls shall . . . declare . . . four times in the year at least, in their sermons and other collations, that all usurped and foreign power, having no establishment by the law of God, is for most just causes taken away and abolished . . . and that the Queen's power within her realms and dominions is the highest power under God, to whom all men within the same realms and dominions by God's law owe most loyalty and obedience . . .

II. Besides this, to the intent that all superstition and hypocrisy crept into divers men's hearts may vanish away, they

shall not set forth or extol the dignity of any images, relics or miracles . . .

III. Item, That they, the parsons above rehearsed, shall preach in their churches and every other cure they have one sermon every month of the year at least, wherein they shall purely and sincerely declare the word of God, . . . and that the works devised by man's fantasies, besides Scripture, as wandering of pilgrimages, setting up of candles, praying upon beads, or such like superstition, have not only no promise of reward in Scripture, but contrariwise great threatenings and maledictions of God . . .

V. Item, That every holy-day through the year, when they have no sermon, they shall immediately after the gospel . . . recite to their parishioners in the pulpit the Paternoster, the Creed, and the Ten Commandments in English . . .

VI. Also, That they shall provide within three months next after this visitation, at the charges of the parish, one book of the whole Bible of the largest volume in English; and within one twelve months next after the said visitation, the Paraphrases of Erasmus also in English upon the Gospels, and the same set up in some convenient place within the said church that they have cure of, whereas the parishioners may most commodiously resort unto the same and read the same, out of the time of common service . . .

VIII. Also, That they shall admit no man to preach within any their cures, but such as shall appear unto them sufficiently licensed thereunto by the Queen's Majesty, or the Archbishop of Canterbury or the Archbishop of York, in either their provinces, or the bishop of the diocese, or by the Queen's Majesty's visitors . . .

IX. Also, if they know any man within their parish or elsewhere that is a letter of the word of God to be read in English . . . or a fautor of any usurped or foreign power . . . they shall detect and present the same to the Queen's Majesty, or to her Council, or to the ordinary, or to the justice of the peace next adjoining.

X. Also, That the parson, vicar or curate, and parishioners of every parish within this realm shall in their churches and chapels keep one book of register, wherein they shall write the

day and year of every wedding, christening and burial made within their parish, . . . and also therein shall write every person's name that shall be so wedded, christened and buried . . .

XI. Furthermore, because the goods of the church are called the goods of the poor, . . . all parsons . . . and other beneficed men . . . not being resident upon their benefices, which may dispend yearly twenty pounds or above, . . . shall distribute hereafter among their poor parishioners or other inhabitants there . . . the fortieth part of the fruits and revenues of the said benefice . }.

XII. And, to the intent that learned men may hereafter spring the more, . . . every parson . . . or beneficed man . . ., having yearly to dispend in benefices and other promotions of the church an hundred pounds, shall give £3 6*s.* 8*d.* in exhibition to one scholar in either of the Universities; and for as many hundred pounds more as he may dispend, to so many scholars more shall give like exhibition . . .

XVIII. Also, to avoid all contention and strife . . . by reason of fond courtesy and challenging of places in the procession, and also that they may the more quietly hear that which is said or sung to their edifying, they shall not from henceforth in any parish church at any time use any procession about the church or churchyard . . .

XX. Item, All the Queen's faithful and loving subjects shall from henceforth celebrate and keep their holy-day according to God's holy will and pleasure, that is, in hearing the word of God read and taught, in private and public prayers [&c.] . . . Yet notwithstanding, all parsons . . . shall teach and declare unto their parishioners that they may, with a safe and quiet conscience, after their common prayer in the time of harvest labour upon the holy and festival days, and save that thing which God hath sent . . .

XXIII. Also, That they [parsons, &c.] shall take away . . . and destroy all shrines, . . . paintings, and all other monuments of feigned miracles, pilgrimages, idolatry and superstition, so that there remain no memory of the same in walls, glass windows, or elsewhere within their churches and houses.

XXIV. And that the churchwardens . . . in every church shall provide a comely and honest pulpit . . .

XXV. Also, they shall provide . . . a strong chest, . . . having three keys, whereof one shall remain in the custody of the parson . . . and the other two in the custody of the churchwardens or any other two honest men to be appointed by the parish from year to year; which chest they shall set and fasten in a most convenient place, to the intent the parishioners should put into it their oblations and alms for their poor neighbours. And the parson . . . shall diligently from time to time, and especially when men make their testaments, call upon . . . their neighbours to give, as they may well spare, to the said chest . . . The which alms . . . the keepers of the keys shall at all times convenient . . . distribute in the presence of the whole parish or six of them, to be truly and faithfully delivered unto their most needy neighbours; and, if they be provided for, then to the reparation of highways next adjoining, or to the poor people of such parishes near, as shall be thought best to the said keepers of the keys.

XXVI. Also, to avoid the detestable sin of simony . . ., all such persons as buy any benefices . . . shall be deprived of such benefices, and be made unable at any time after to receive any other spiritual promotion . . .

XXVII. Also, because through lack of preachers in many places . . . the people continue in ignorance and blindness, all parsons . . . shall read in their churches every Sunday one of the homilies set forth . . . by the Queen's authority . . .

XXIX. Item, Although there be no prohibition by the word of God, nor any example of the primitive church, but that the priests and ministers of the church may lawfully, for the avoiding of fornication, have an honest and sober wife, and that for the same purpose the same was by Act of Parliament in the time of our dear brother King Edward the Sixth made lawful, whereupon a great number of the clergy of this realm were then married, and so continue; yet because there hath grown offence . . . it is thought therefore very necessary that no manner of priest or deacon shall hereafter take to his wife any manner of woman without the advice and allowance first had upon good examination by the bishop of the same diocese and two justices of the peace of the same shire, . . . nor without the good will of the parents of the said woman, if she have any living, or two of

the next of her kinsfolks, or, for lack of knowledge of such, of her master or mistress where she serveth . . . And for the manner of marriages of any bishops, the same shall be allowed and approved by the metropolitan of the province, and also by such commissioners, as the Queen's Majesty thereunto shall appoint. And if any master or dean or any head of any college shall purpose to marry, the same shall not be allowed but by such to whom the visitation of the same doth properly belong . . .

XXX. Item, her Majesty being desirous to have the prelacy and clergy of this realm to be had as well in outward reverence, as otherwise regarded for the worthiness of their ministries . . . willeth and commandeth that all archbishops and bishops, and all that may be called or admitted to preaching or ministry of the sacraments, or that be admitted into vocation ecclesiastical or into any society of learning in either of the universities or elsewhere, shall use and wear such seemly habits, garments, and such square caps, as were most commonly and orderly received in the latter year of the reign of King Edward the Sixth; . . .,

XLIII. Item, Forasmuch as in these latter days many have been made priests being children and otherwise utterly unlearned, so that they could read to say matins or mass, the ordinaries shall not admit any such to any cure or spiritual function.

XLIV. Item, every parson, vicar and curate shall upon every holy-day, and every second Sunday in the year, hear and instruct all the youth of the parish . . . in the Ten Commandments, the Articles of the Belief, and in the Lord's Prayer, and diligently examine them, and teach the Catechism set forth in the book of public prayer.

LI. Item, Because there is a great abuse in the printers of books . . . the Queen's Majesty straitly chargeth and commandeth that no manner of person shall print any manner of book or paper . . . except the same be first licensed by her Majesty by express words in writing, or by six of her Privy Council; or be perused and licensed by the Archbishops of Canterbury and York, the Bishop of London, the Chancellors of both Universities, the bishop being ordinary and the archdeacon also of the place where any such shall be printed, or by two of them, whereof the ordinary of the place to be always

one . . . And because many pamphlets, plays and ballads be oftentimes printed . . . her Majesty likewise commandeth that no manner of person shall enterprise to print any such, except the same be to him licensed by such her Majesty's commissioners, or three of them, as be appointed in the city of London to hear and determine divers causes ecclesiastical, tending to the execution of certain statutes made last parliament for uniformity of order in religion . . . And touching all other books of matters of religion or policy or governance, . . . her Majesty referreth the prohibition or remission thereof to the order which her said commissioners within the city of London shall take and notify . . . Provided that these orders do not extend to any profane authors and works in any language, that have been heretofore commonly received or allowed in any of the Universities and schools, but the same may be printed and used as by good order they were accustomed.

An admonition to simple men, deceived by malicious.

The Queen's Majesty being informed that . . . sundry of her native subjects, being called to ecclesiastical ministry of the church, be . . . induced to find some scruple in the form of an oath, which by an Act[1] of the last Parliament is prescribed to be required of divers persons for the recognition of their allegiance to her Majesty, . . . forbiddeth all manner her subjects to give ear or credit to such . . . persons which . . . labour to notify to her loving subjects how by words of the said oath it may be collected that the Kings or Queens of this realm . . . may challenge authority and power of ministry of divine service in the church . . . For certainly her Majesty neither doth nor ever will challenge any authority than that was challenged and lately used by the noble kings of famous memory, King Henry the Eighth and King Edward the Sixth, which is and was of ancient time due to the imperial crown of this realm, that is, under God to have the sovereignty and rule over all manner of persons born within these her realms, . . . so as no other foreign power shall or ought to have any superiority over them . . .

[1] 1 Eliz. 1. § 9.

For tables in the church.

Whereas her Majesty understandeth that in many parts of the realm the altars of the churches be removed, and tables placed for the administration of the Holy Sacrament, according to the form of the law therefore provided, and in some other places the altars be not yet removed; . . . in the order whereof, saving for an uniformity, there seemeth no matter of great moment, so that the sacrament be duly and reverently ministered; yet for observation of one uniformity through the whole realm . . . it is ordered . . . that the holy table in every church be decently made, and set in the place where the altar stood, . . . and so to stand, saving when the communion of the sacrament is to be distributed; at which time the same shall be so placed within the chancel, as whereby the minister may be more conveniently heard . . . and the communicants also more conveniently and in more number communicate with the said minister. And after the communion done, from time to time the same holy table to be placed where it stood before.

Item, . . . It is ordered . . . that the sacramental bread be made plain, without any figure thereupon, of the same fineness and fashion round, though somewhat bigger in compass and thickness, as the usual bread and water heretofore named singing cakes, which served for the use of the private mass.

The form of bidding the prayers to be used generally in this uniform sort: Ye shall pray [&c.] . . .

Sparrow's Articles, p. 65.

3. *Summons to Convocation*, 1562.

Elizabetha, Dei gratia [&c.], reverendissimo in Christo Patri Matthaeo eadem gratia Cantuariensi Archiepiscopo, totius Angliae Primati et Metropolitano, salutem. Quibusdam arduis et urgentibus negotiis nos, securitatem et defensionem Ecclesiae Anglicanae ac pacem et tranquillitatem, bonum publicum et defensionem regni nostri et subditorum nostrorum ejusdem concernentibus, vobis in fide et dilectione quibus nobis tenemini rogando mandamus, quatenus, praemissis debito intuitu attentis et ponderatis, universos et singulos episcopos vestrae provinciae ac decanos ecclesiarum cathedralium, necnon archidiaconos, capitula et collegia totumque clerum cujuslibet

dioceseos ejusdem provinciae ad comparendum coram vobis in ecclesia cathedrali S. Pauli Lond., duodecimo die Januarii ex futuro, debito more convocari faciatis, ad tractandum consentiendum et concludendum super praemissis et aliis quae sibi clarius exponentur tunc ibidem ex parte nostra. Et hoc, sicut nos et statum regni nostri et honorem et utilitatem ecclesiae praedictae diligitis, nullatenus omittatis. Teste meipsa, apud Westmon. xi. die Novemb. anno regni nostri quarto.

Strype, Parker, I. p. 236.

4. *Convocation of* 1563: *Puritan demands.*

I. [1] That all the Sundays in the year, and principal feasts of Christ be kept holydays, and all other holydays to be abrogated.

II. That in all parish churches the minister in common prayer turn his face toward the people, and there distinctly read the divine service appointed, where all the people assembled may hear and be edified.

III. That in ministering the sacrament of baptism the ceremony of making the cross in the child's forehead may be omitted, as tending to superstition.

IV. That, forasmuch as divers communicants are not able to kneel during the time of the communion for age, sickness and sundry other infirmities, and some also superstitiously both kneel and knock, that order of kneeling to be left to the discretion of the ordinary within his jurisdiction.

V. That it be sufficient for the minister, in time of saying divine service and ministering the sacraments, to use a surplice, and that no minister say service or minister the sacraments but in a comely garment or habit.

VI. That the use of organs be removed.

Strype, Annals, I. p. 502.

5. *The Advertisements*, 1566.

Advertisements [2] partly for due order in the public administration of common prayer and using the holy sacraments, and

[1] These articles were brought into the Lower House of Convocation, Feb. 13, 1563, and rejected by a majority of one vote (58 for, 59 against). A previous petition, signed by thirty-three members of the Lower House, had demanded among other things, the total abolition of surplices and square caps (*Strype, Annals*, I. pp. 500–505).

[2] An earlier draft of these advertisements, differing in some particulars, is printed in *Strype, Parker*, III. p. 84.

partly for the apparel of all persons ecclesiastical, by virtue of the Queen's Majesty's letters commanding the same the 25th day of January in the seventh year of the reign of our sovereign lady Elizabeth [&c.].

The Queen's Majesty, of her godly zeal calling to remembrance how necessary it is to the advancement of God's glory and to the establishment of Christ's pure religion, for all her loving subjects, especially the state ecclesiastical, to be knit together in one perfect unity of doctrine and to be conjoined in one uniformity of rites and manners, . . . hath by her letters[1] directed unto the Archbishop of Canterbury . . . straitly charged that, with assistance and conference had with other bishops, namely such as be in commission for causes ecclesiastical, some orders might be taken whereby all diversities and varieties among them of the clergy and the people . . . might be reformed . . . Whereupon . . . by consent of the persons before said, these orders and rules ensuing have been thought meet and convenient to be used and followed; not yet prescribing these rules as laws equivalent with the eternal word of God and as of necessity to bind the consciences of her subjects in the nature of them considered in themselves, or as they should add any efficacy or more holiness to the virtue of public prayer and to the sacraments, but as temporal orders mere ecclesiastical, without any vain superstition, and as rules in some part of discipline concerning decency, distinction and order for the time.

I. *Articles for doctrine and preaching*[2].

(1) First[3], That all they which shall be admitted to preach, shall be diligently examined for their conformity in unity of doctrine, established by public authority; and admonished to use sobriety and discretion in teaching the people, namely in matters of controversy . . .

(4) Item, That all licenses for preaching granted out by the archbishops and bishops within the province of Canterbury, bearing date before 1 March, 1564, be void and of none effect;

[1] See the letter alluded to in *Parker Correspondence*, p. 223.

[2] Cf. *Strype, Parker*, I. pp. 313, 430; text in III. p. 84.

[3] This is preceded in Strype's draft by three sections declaring the validity of the thirty-nine articles and enacting that all clergymen shall declare their adhesion to them.

and nevertheless all such as shall be thought meet for the office to be admitted again without difficulty or charge . . .

II. *Articles for administration of prayers and sacraments.*

(2) Item, That no parson or curate, not admitted by the bishop of the diocese to preach, do expound in his own cure or otherwhere any scripture or matter of doctrine, . . . but only study to read gravely and aptly, without any glosing of the same or any additions, the homilies already set out, or other such necessary doctrine as is or shall be prescribed for the quiet instruction and edification of the people.

(4) In the ministration of the Holy Communion in cathedral and collegiate churches the principal minister shall use a cope, with gospeller and epistoler agreeably, and at all other prayers to be said at the communion table to use no copes but surplices.

(5) That the dean and prebendaries wear a surplice with a silk hood in the quire . . .

(6) Item, That every minister saying any public prayers or ministering the sacraments or other rites of the church shall wear a comely surplice with sleeves, to be provided at the charges of the parish; and that the parish provide a decent table standing on a frame for the communion table.

(8) That all communicants do receive kneeling . . .

III. *Articles for certain orders in ecclesiastical policy.*

(1) First, Against the day of giving orders appointed, the bishop shall . . . give notice that none shall sue for orders but within their own diocese where they were born or had their long time of dwelling, except such as shall be of degree in the Universities.

(3) Item, That no curate or minister be permitted to serve without examination and admission of the ordinary or his deputy . . . and that the said ministers, if they remove from one diocese to another, be by no means admitted to serve without testimony of the diocesan from whence they come, in writing, of their honesty and ability.

IV. *Articles for outward apparel of persons ecclesiastical.*

(4) Item, That . . . all ecclesiastical persons or other having

any ecclesiastical living do wear the cap appointed by the injunctions . . .

V. *Protestations to be made . . . and subscribed by them that shall hereafter be admitted to any office . . . ecclesiastical.*

(1) Imprimis, I shall not preach or publicly interpret, but only read that which is appointed by public authority, without special license of the bishop under his seal . . .

(4) I shall use sobriety in apparel, and specially in church at common prayers, according to order appointed . . .

(7) I do also faithfully promise . . . to observe . . . such order and uniformity in all external policy, rites, and ceremonies of the church, as by the laws, good usages and orders are already well provided and established . . .

Agreed upon and subscribed by

MATTHAEUS CANTUARIENSIS
EDMONDUS LONDONIENSIS
RICHARDUS ELIENSIS
EDMONDUS ROFFENSIS
ROBERTUS WINTONIENSIS
NICHOLAUS LINCOLNIENSIS
with others[1].

} Commissioners in causes Ecclesiastical

Sparrow's Articles, pp. 120–128.

6. *Beginnings of Puritanism*, 1568.

Dum Thomas Hardingus, Nicholaus Sanderus, et T. P. theologi ex Anglia profugi strenue exercerent episcopalem potestatem a Pontifice Romano nuper acceptam, absolvendi in foro conscientiae omnes Anglos qui ad ecclesiae gremium revertebantur et dispensandi etiam in causa irregularitatis, exceptis ex homicidio voluntario provenientibus seu deductis in forum contentiosum, etiam ab irregularitate ratione haeresis, dummodo absolvendi abstineant per triennium a ministerio altaris: ex altera parte Colmanus, Buttonus, Hallinghamus, Bensonus et alii, qui sinceriorem religionem ardenti cum zelo professi nihil nisi quod e sacrarum literarum fontibus haustum probarunt, sive ex purioris disciplinae novitatis aut dissensionis studio, receptam

[1] For the date and origin of these advertisements, see Tomlinson, *The Prayer Book, Articles and Homilies*, pp. 61 ff.

Ecclesiae Anglicanae disciplinam, liturgiam, episcoporum vocationem in quaestionem palam vocarunt, imo damnarunt, ut quae Romanam religionem plus nimio sapiant, quacum aliquid habere commune impium esse declamitarunt; omnia versantes, ut ad Genevensis Ecclesiae amussim singula in Anglica Ecclesia reformarentur. Hos quanquam Regina in custodiam dari iusserit, incredibile tamen est, quantum consectan i, qui invidioso Puritanorum nomine statim innotescere coeperunt, obstinata quadam pervicacia, episcoporum vecordia, et occulto quorundam nobilium ecclesiae opibus inhiantium favore, ubique succreverint. *Camden, Annales*, p. 132; a. a. 1568.

7. *Bull of Excommunication*, 1570.

Pius episcopus, servus servorum Dei, ad perpetuam rei memoriam.

Regnans in excelsis, cui data est omnis in caelo et in terra potestas, unam sanctam Catholicam et Apostolicam Ecclesiam, extra quam nulla est salus, uni soli in terris, videlicet apostolorum principi Petro, Petrique successori Romano Pontifici in potestatis plenitudine tradidit gubernandam. . . . Quo quidem in munere obeundo . . . nullum laborem intermittimus . . . ut ipsa unitas et Catholica religio . . . integra conservetur. Sed impiorum numerus tantum potentia invaluit, ut nullus jam in orbe locus sit relictus, quem illi pessimis doctrinis corrumpere non tentarint, adnitente inter caeteros flagitiorum serva Elizabeth, praetensa Angliae regina, ad quam veluti ad asylum omnium infestissimi profugium invenerunt. Haec eadem, regno occupato, supremi ecclesiae capitis locum in omni Anglia ejusque praecipuam auctoritatem atque jurisdictionem monstruose sibi usurpans, regnum ipsum, jam tum ad fidem catholicam et bonam frugem reductum, rursus in miserum exitium revocavit. Usu namque verae religionis, quam ab illius desertore Henrico Octavo olim eversam clarae memoriae Maria, regina legitima, huius sedis praesidio reparaverat, potenti manu inhibito, secutisque et amplexis haereticorum erroribus, regium consilium ex Anglica nobilitate confectum diremit, illudque obscuris hominibus haereticis complevit, Catholicae fidei cultores oppressit, improbos concionatores atque impietatum administros reposuit, . . . deque ecclesiae causis decernere ausa, praelatis,

clero et populo ne Romanam Ecclesiam agnoscerent . . . interdixit, plerosque . . . Romani Pontificis auctoritatem atque obedientiam abjurare seque solam in temporalibus et spiritualibus dominam agnoscere jurejurando coegit. . . . Illius itaque auctoritate suffulti, qui Nos in hoc supremo justitiae throno, licet tanto operi impares, voluit collocare, de apostolicae potestatis plenitudine declaramus praedictam Elizabeth, haereticam et haereticorum fautricem, eique adhaerentes in praedictis anathematis sententiam incurrisse, esseque a Christi corporis unitate praecisos; quin etiam ipsam praetenso regni praedicti jure, necnon omni et quocunque dominio, dignitate privilegioque privatum; et item proceres, subditos et populos dicti regni ac caeteros omnes qui illi quomodocunque juraverunt a juramento hujusmodi ac omni prorsus dominii, fidelitatis et obsequii debito perpetuo absolutos, prout nos illos praesentium auctoritate absolvimus; et privamus eandem Elizabeth praetenso jure regni aliisque omnibus supradictis. Praecipimusque et interdicimus universis et singulis proceribus, subditis, populis et aliis praedictis, ne illi ejusve monitis, mandatis et legibus audeant obedire. Qui secus egerint, eos simili anathematis sententia innodamus . . .

Datum Romae apud sanctum Petrum, anno incarnationis Dominicae millesimo quingentesimo sexagesimo nono, quinto Kal. Martii, pontificatus nostri anno quinto.

Bullarium Romanum, II. p. 325.

8. *Puritan Doctrines.*

(a) *Cartwright's propositions*, 1570.

I. [1] Archiepiscoporum et archidiaconorum nomina simul cum muneribus et officiis suis sunt abolenda.

II. Legitimorum in ecclesia ministrorum nomina, qualia sunt episcoporum et diaconorum, separata a suis muneribus in verbo Dei descriptis, similiter sunt improbanda et ad institutionem apostolicam revocanda; ut episcopus in verbo et precibus, diaconus in pauperibus curandis versetur.

III. Episcoporum cancellariis aut archidiaconorum officiali-

[1] Called by Strype 'a copy of the propositions Cartwright had set down and subscribed with his own hand.'

bus regimen ecclesiae non est committendum, sed ad idoneum ministrum et presbyterium ejusdem ecclesiae deferendum.

IV. Non oportet ministerium esse vagum et liberum, sed quisque debet certo cuidam gregi addici.

V. Nemo debet ministerium tanquam candidatus petere.

VI. Episcopi tantum authoritate et potestate ministri non sunt creandi . . . sed ab ecclesia electio fieri debet.

Strype, Annals, II. p. 380; *Whitgift,* III. p. 17.

(b) *Chark's propositions,* 1572.

Chark[1], in a *clerum* at St Mary's before the University [of Cambridge], had roundly condemned the hierarchy of this church . . . laying down these two bold positions:

Isti status episcopatus, archiepiscopatus, metropolitanatus, patriarchatus, denique papatus, a Satana in ecclesiam introducti sunt.

Inter ministros ecclesiae, non debet alius alio esse superior.

Strype, Annals, III. p. 278; cf. *Strype, Parker,* II. p. 194; *Whitgift,* I. p. 88; III. p. 24.

(c) *Dering's propositions,* 1573.

The lordship or civil government of bishops is utterly unlawful . . . And what, I beseech you, is the fruit it bringeth? Is it not the same that springeth out of the pope's breast? What else are officials, commissaries, chancellors, archdeacons, &c., which rule and govern by the common laws? Much worse than the statutes of Omri, and all the ordinances of the house of Achab: which uphold in the midst of us a court of Faculties, a place much worse than Sodom and Gomorrah . . .

Letter from Edw. Dering, reader at St Paul's, to Lord Burleigh, dated 1 *Nov.* 1573; *Strype, Annals,* III. pp. 401–411.

(d) *Sampson's propositions,* 1574.

. . . My good lord, pro Christo Domino dominantium rogo, obsecro, that there may be a consideration had of the state of the Church of England. The doctrine of the gospel is and may be purely preached in England: but the government of the church appointed in the gospel yet wanteth here. The doctrine

[1] William Chark, late fellow of Peterhouse, then chaplain to Lord Cheynie.

is good, the government by him appointed is good. These are to be conjoined, and not separated. It is a deformity to see the Church of Christ, professing his gospel, to be governed by such canons and customs as by which Antichrist did rule his synagogue . . .

Letter from Sampson, formerly Dean of Christ Church, to Lord Burleigh, dated 8 March, 1573-4; Strype, Annals, III. p. 373.

9. *Extracts from the First Admonition, 1572.*

An Admonition to the Parliament. A view of popish abuses yet remaining in the English Church for the which godly ministers have refused to subscribe.

Whereas immediately after the last parliament[1] . . . the ministers of God's holy word and sacraments were called before her Majesty's High Commissioners, and enforced to subscribe unto the articles, if they would keep their places and livings, and some for refusing to subscribe were . . . removed: May it please therefore this honourable and high court of parliament . . . to take a view of such causes as then did withhold and now doth the foresaid ministers from subscribing and consenting unto those foresaid articles, by way of purgation to discharge themselves of all disobedience towards the Church of God and their sovereign, and by way of most humble entreaty for the removing away . . . of all such corruptions and abuses as withheld them . . . Albeit, right honourable and dearly beloved, we have at all times borne with that which we could not amend in this book[2], and have used the same in our ministry, so far forth as we might . . . yet now being compelled by subscription to allow the same and to confess it not to be against the word of God in any point, but tolerable, we must needs say as followeth, that this book is an unperfect book, culled and picked out of that popish dunghill the portuise and mass-book full of all abominations. For some and many of the contents therein be such as are against the word of God . . .

Their pontifical, . . . whereby they consecrate bishops, make ministers and deacons, is nothing else but a thing word for word drawn out of the Pope's pontifical . . .; and as the names

[1] The parliament of 1571.

[2] The Book of Common Prayer.

of archbishops, archdeacons, lord bishops, chancellors, &c., are drawn out of the Pope's shop together with their offices, so the government which they use . . . is antichristian and devilish, and contrary to the scriptures. And as safely may we, by the warrant of God's word, subscribe to allow the dominion of the Pope universally to rule over the word of God, as of an archbishop over a whole province, or a lord bishop over a diocese which containeth many shires and parishes. For the dominion that they exercise . . . is unlawful and expressly forbidden by the word of God . . .

What should we speak of the archbishop's court, sith all men know it, and your wisdoms cannot but see what it is. As all other courts are subject to this by the Pope's prerogative, yea, and by statute of this realm yet unrepealed, so is it the filthy quake-mire and poisoned plash of all the abominations that do infect the whole realm . . . And as for the commissaries' court, that is but a petty little stinking ditch that floweth out of that former great puddle, robbing Christ's Church of lawful pastors, of watchful seniors and elders, and careful deacons . . .

And as for the apparel, though we have been long borne in hand, and yet are, that it is for order and decency commanded, yet we know and have proved that there is neither order nor comeliness nor obedience in using it . . . Neither is the controversy betwixt them and us (as they would bear the world in hand) for a cap, a tippet or a surplice, but for great matters concerning a true ministry and regiment of the church according to the word . . . If it might please her Majesty, by the advice of your Right Honourable, in this High Court of Parliament, to hear us by writing or otherwise to defend ourselves, then, such is the equity of our cause that we would trust to find favour in her Majesty's sight . . . If this cannot be obtained, we will, by God's grace, address ourselves to defend his truth by suffering and willingly lay our heads to the block, and this shall be our peace, to have quiet consciences with our God, whom we will abide for with all patience until he work our full deliverance. *First Admonition*[1] *to Parliament*, 1572.

[1] Composed by Cartwright, Sampson and others, and addressed to the Parliament of 1572: cf. below, p. 247.

10. *The Canons of* 1571.

Liber quorundam canonum disciplinae ecclesiae Anglicanae anno 1571. Sequuntur in hoc libello certi quidam articuli . . . in quos plene consensum est . . . in synodo inchoata Londini in aede divi Pauli [3 Apr. 1571].

I. *De Episcopis.*

. . . (3) Episcopus quisque ante calendas Septembris proximas advocabit ad se omnes publicos concionatores . . . et ab illis repetet facultates concionandi . . . Deinde, delectu illorum prudenter facto, quoscunque ad illam tantam functionem . . . pares invenerit, illis novas facultates ultro dabit; ita tamen ut prius subscribant articulis christianae religionis publice in synodo approbatis, fidemque dent se velle tueri et defendere doctrinam eam quae in illis continetur, ut consentientissimam veritati divini verbi . . .

(6) Episcopus nemini posthaec manum imponet nisi instituto in bonis literis vel in academia vel in inferiori aliqua schola, aut qui satis commode intelligat Latinam linguam et probe versatus sit in sacris literis; nec nisi attigerit aetatem illam legitimam quae statutis et legibus est constituta; nec nisi cujus vita et innocentia gravium et piorum hominum et episcopo notorum fuerit testimonio commendata; nec si in agricultura vel in vili aliquo et sedentario artificio fuerit educatus; nec nisi qui titulum (quem appellant) aliquem habeat, ut sit unde vitam tueatur . . .; nec nisi qui intra ipsius dioecesim sacro ministerio functurus sit; nec unquam nisi ubi sacrum aliquod ministerium in eadem dioecesi vacare contigerit. Neminem autem peregrinum et ignotum vel ad sacerdotiorum proventus vel ad ecclesiasticum ministerium recipiet nisi ab illo episcopo, e cujus dioecesi discessit, literas commendatitias quas vocant dimissorias secum afferat. . . .

(8) Episcopus neminem qui se otioso nomine lectorem vocet et manus impositionem non acceperit, in ecclesiae ministerio versari patietur.

II. *Decani ecclesiarum cathedralium.*

. . . (5) Quivis decanus in singulos annos ad minimum quater residebit in ecclesia sua cathedrali ibique singulis hujusmodi vicibus mensem integrum . . . moram faciet.

III. *Archidiaconi.*

. . . (2) Archidiaconus qui . . . habet potestatem visitandi semel in singulos annos in persona sua visitabit provinciam suam. . . .

(5) Archidiaconi in omnes delinquentes severe et graviter animadvertent . . .

IV. *Cancellarii, Commissarii, Officiales.*

. . . (2) Nullus horum . . . in cognitione causarum procedet usque ad ferendam sententiam excommunicationis nisi tantum in causis instantiarum . . .

(3) Excommunicationis autem sententiam deferent tantum ad episcopum, eamque aut ipse per se pronunciabit aut gravi alicui viro in sacro ministerio constituto pronunciandam committet. . . . Commutationem autem injunctae poenitentiae nec cancellarius faciet nec archidiaconus nec officialis nec commissarius. Ea potestas multis gravibus de causis episcopo soli reservatur aut si quem alium episcopus ad eum usum speciali mandato designabit. . . .

(7) Quivis minister ecclesiae, antequam in sacram functionem ingrediatur, subscribet omnibus articulis de religione christiana in quos consensum est in synodo . . .

V. *Aeditui ecclesiarum et alii selecti viri.*

. . . . . .

VI. *Concionatores.*

Nemo nisi ab episcopo permissus in parochia sua publice praedicabit nec posthaec audebit concionari extra ministerium et ecclesiam suam, nisi potestatem ita concionandi acceperit vel a regia majestate per omnes regni partes vel ab archiepiscopo per provinciam vel ab episcopo per dioecesim. . . . Et quoniam articuli illi religionis Christianae . . . haud dubie collecti sunt ex sacris libris Veteris et Novi Testamenti et cum caelesti doctrina quae in illis continetur per omnia congruunt . . ., illorum articulorum auctoritatem et fidem . . . subscriptione confirmabunt. Qui secus fecerit, et contraria doctrina populum turbaverit, excommunicabitur.

Inter concionandum utentur veste quam maxime modesta et gravi . . . qualisque in libello admonitionum descripta est.

LIBRARY OF THE

VII. *Residentia.*

Absentia pastoris a dominico grege et secura illa negligentia quam videmus in multis et destitutio ministerii est res in se foeda et odiosa in vulgus et perniciosa ecclesiae Dei. Itaque hortamur omnes pastores ecclesiarum in Domino Jesu, ut quamprimum redeant ad parochias quique suas . . . ibique versentur in singulos annos non minus quam sexaginta dies.

VIII. *Pluralitas.*

Non licebit cuiquam, cujuscunque sit gradus, plusquam duo ecclesiastica beneficia obtinere eodem tempore, neque cuiquam omnino licebit obtinere duo beneficia si plusquam viginti sex milliariis distincta sint.

IX. *Ludimagistri.*

X. *Patroni et Proprietarii.*

XI. *Forma sententiae excommunicationis.*

Strype, Parker, II. p. 60.

11. *Exercises.*

(a) *Regulations in the diocese of Peterborough,* 1571.

Prophecyings or exercises were much used now throughout most of the dioceses[1]. . . These exercises were used in the church of Northampton by the consent of the bishop of Peterborough, Scambler, the mayor of the town and his brethren, and other the Queen's Majesty's justices of the peace within the county and town . . .

. . . XII. There is on every other Saturday . . . an exercise of the ministers both in town and country, about the interpretation of scriptures. The ministers speaking one after another do handle some text, and the same openly among the people . . . There is also a weekly assembly every Thursday after the lecture, by the mayor and his brethren, assisted with the preacher, minister and other gentlemen appointed to them by the bishop, for the correction of discord made in the town: as for notorious blasphemy, whoredom, drunkenness, railing against

[1] For Bishop Parkhurst's permission of exercises in the diocese of Norwich, 1572, see *Strype, Annals,* IV. p. 494; for regulations in the diocese of Lincoln, 1574, *id.* III. p. 472.

religion, or preachers thereof, scolds, ribalds or such like; which faults are each Thursday presented unto them in writing by certain sworn men, appointed for that service in each parish. So by the bishop's authority and the mayor's joined together, being assisted with other gentlemen in the commission of the peace, evil life is corrected . . .

XVII. There is hereafter to take place, order that all ministers of the shire, once every quarter . . . repair to the said town; and there after a sermon . . . privately to confer among themselves of their manners and lives. Among whom if any be found in fault, for the first time exhortation is made to him among all the brethren to amend; and so likewise the second; and [the] third time, by complaint from all the brethren, he is committed unto the bishop for his correction.

The order of the exercise of the ministers with a confession of the faith.

I. Every one at his first allowance to be of this exercise shall, by subscription of his own hand, declare his consent in Christ's true religion with his brethren, and submit himself to the discipline and orders of the same.

II. The names of every man that shall speak in this exercise shall be written in a table . . .

III. The first speaker beginning and ending with prayer ought to explain the text that he readeth. Then he may confute any false or untrue expositions . . . But he shall not digress . . .

IV. Whatsoever is left of the first speaker . . . they that speak afterwards have liberty to touch, . . . without repeating the selfsame words which have been spoken before or impugning the same, except any have spoken contrary to the scriptures.

V. The exercise shall begin immediately after nine of the clock and not exceed the space of two hours . . . One of the moderators shall always make the conclusion.

VI. After the exercise is ended, . . . if any of the speakers in this exercise be infamed or convinced of any grievous crime, he shall be there and then reprehended.

VII. . . . And this consultation shall be ended with some

short exhortation, to move each one to go forward in his office . . .

Then followed a confession which these exercisers were to subscribe . . .

The confession in the exercises.

We whose names are hereunder written . . . believe and hold, that the word of God written in the canonical scriptures of the Old and New Testament . . . [is] and ought to be open, to be read and known of all sorts of men, . . . and the authority thereof far to exceed all authority, not of the Pope of Rome only . . . but of the church also, of councils, fathers or others whosoever, either men or angels. And therefore to this word of God we humbly submit ourselves and all our doings; willing and ready to be judged . . . thereby, in all points of religion.

Strype, Annals, III. pp. 133–140, a. a. 1571; cf. *id.* III. p. 472.

(b) *Suppression of Exercises*, 1574.

Archbishop Parker to Mr Matchett.

. . . You shall go unto my lord your ordinary, and show him that the Queen's Majesty willed me to suppress those vain prophecyings. And thereupon I require him in her Majesty's name immediately to discharge them of any further such doing . . . MATTHUE CANTUAR.

[Dated 25 March, 1574.]

Parker Correspondence, p. 456.

(c) *Grindal's Regulations*, 1576.

Orders[1] *for reformation of abuses about the learned exercises and conferences among the Ministers of the Church.*

I. The said exercises are to be used only in such churches and at such times as the bishop of the diocese shall . . . appoint.

II. Item, That in all such exercises, either the archdeacon, if he be a divine, or else some one other grave learned graduate, at the least, to be appointed . . . by the bishop . . . and moderate the said exercises.

[1] Cf. Letter of Grindal to the Queen, 20 Dec. 1576 (*Remains of Grindal*, p. 383).

III. Item, That a catalogue of names be made and allowed of those that are judged meet to be speakers . . . and such parts of the Scripture entreated of as the bishop shall appoint.

IV. Item, That the rest of the ministers . . . be assigned by the moderators some tasks, for the increase of their learning, to be comprised in writing or otherwise, concerning the exposition of some part of Scripture . . .

V. Item, *ante omnia*, that no lay person be suffered to speak publicly in those assemblies.

VI. Item, That no man speaking in the said exercises shall be suffered to glance openly or covertly against any state or any person public or private . . .

VII. Item, That no man be suffered in the said exercises to make any invections against the laws, rites, policies and discipline of the Church of England established by public authority . . .

VIII. Item, Forasmuch as divers ministers, deprived from their livings and inhibited to preach for not obeying the public orders and discipline of the Church of England, have intruded themselves in sundry places to be speakers in the said exercises, and . . . have in the said exercises usually made their invections against the orders, rites and discipline of the church . . . , every bishop is to take strict order in his diocese, that hereafter none be suffered to be speakers in the said exercises, which remain deprived or inhibited for the causes aforesaid, except they shall have before conformed themselves to order, neither any other which shall not . . . conform himself . . .

EDM. CANTUAR.

Strype, Grindal, pp. 327, 328, s. a. 1576.

(d) *The Queen's Letter against Prophesyings*, 1577.

Right reverend father in God, we greet you well. We hear to our great grief, that in sundry parts of our realm there are no small number of persons . . . which contrary to our laws . . . do daily devise . . . and put in execution sundry new rites and forms in the church, as well by their preaching, reading and ministering the sacraments, as by procuring unlawful assemblies of a great number of our people . . . to be hearers of their disputations and new devised opinions upon matters of divinity, far and unmeet of unlearned people, which manner of invasions

they in some places call prophecying and in some other places exercises; by which manner of assemblies great numbers of our people . . . are brought to idleness and seduced and in a manner schismatically divided amongst themselves . . . and manifestly thereby encouraged to the violation of our laws . . . Wherefore, considering that it should be the duty of the bishops . . . to see these dishonours against the honour of God and the quietness of the church reformed, . . . we will and straightly charge you that you also charge the same forthwith to cease . . .; but if any shall attempt or continue or renew the same, we will you not only to commit them unto prison as maintainers of disorders, but also to advertise us or our council of the names and qualities of them and of their maintainers and abettors, that thereupon for better example their punishment may be more sharp for their reformation. And in these things we charge you to be so careful and vigilant as by your negligence . . . we be not forced to make some example or reformation of you according to your deserts.

[Dated 7 May, 1577.] *Cardwell, Documentary Annals*, I. p. 373.

(e) *Regulations in the diocese of Chester*, 1585.

A copy of the authority given by the bishop [of Chester] to the moderators of every several exercise . . . and other orders to be observed in the exercises.

William[1], by God his providence bishop of Chester, to . . ., moderators for the exercises holden at Bury, within the diocese of Chester, greeting. Whereas the right honourable the lords of her Majesty's most honourable privy council . . . have recommended unto us some further enlargements of the ecclesiastical exercise, . . . since which time we do understand . . . that many who ought to frequent the said exercise . . . either negligently deal in the same or wilfully absent themselves, . . . these are therefore to authorise you that you do . . . give notice to all the clergy . . . of the contents of these presents. And if you shall find any . . . negligent . . . after warning given, . . . to suspend him so offending . . . And what you do concerning the premisses we will you certify us . . .

[1] Will. Chaderton, Bishop of Chester, 1579–1586.

... All parsons, vicars, curates and schoolmasters within every deanery are to appear personally on every exercise day, there either to write or speak ... All the people and the whole congregation are to resort to the sermon, but none to the other exercise but clergymen only ... and schoolmasters.

[Dated 1 Sept. 1585.]

Strype, Annals, IV. pp. 546–549.

(f) *Harrison on Prophesyings.*

In many of our archdeaconries we have an exercise lately begun, which for the most part is called a prophecy or conference, and erected only for the examination or trial of the diligence of the clergy in their study of holy scriptures. Howbeit such is the thirsty desire of the people in these days to hear the word of God, that they also have as it were with zealous violence intruded themselves among them (but as hearers only), to come by more knowledge through their presence at the same ... The laity never speak of course, except some vain and busy head will now and then intrude themselves with offence, but are only hearers; and as it is used in some places weekly, in others once in fourteen days, in divers monthly and elsewhere twice a year, so is it a notable spur unto all the ministers thereby to apply their books, which otherwise (as in times past) would give themselves to hawking, hunting, tables, cards, dice, tippling at the alehouse, shooting of matches and other such like vanities.

... But alas! as Satan the author of all mischief hath in sundry manners heretofore hindered the erection and maintenance of many good things, so in this he hath stirred up adversaries of late ... who have ... procured the suppression of these conferences.

Harrison's Description of England, Bk. II. ch. 1.

(g) *Bacon on Prophesyings.*

Is there no means to nurse and train up ministers, ... to train them, I say, not to preach ... but to preach soundly and handle the scriptures with wisdom and judgment? I know prophecying was subject to great abuses ... But I say the only reason of the abuse was because there were admitted to it a

popular auditory, and it was contained with a private conference of ministers.

Bacon, Discourse concerning Church Affairs, ed. 1641, pp. 32, 33.

12. *The Queen's Proclamation against Nonconformists*, 1573.

A proclamation against the despisers or breakers of the orders prescribed in the book of Common Prayer.

By the Queen.

The Queen's Majesty being right sorry to understand that the order of Common Prayer set forth by the common consent of the realm and by authority of parliament in the first year of her reign, wherein is nothing contained but the scripture of God and that which is consonant unto it, is now of late of some men despised and spoken against, both by open preachings and writings, and of some bold and vain curious men new and other rites found out and frequented; whereupon contentions, sects and disquietness doth arise among her people, and, for one godly and uniform order, diversity of rites and ceremonies, disputations and contentions, schism and divisions already risen, and more like to ensue: the cause of which disorders her Majesty doth plainly understand to be the negligence of the bishops and other magistrates, who should cause the good laws and acts of parliament made in this behalf to be better executed, and not so dissembled and winked at as hitherto it may appear that they have been:

For speedy remedy whereof her Majesty straitly chargeth and commandeth all archbishops and bishops . . . and all other who have any authority, to put in execution the Act for the uniformity of Common Prayer and the administration of the sacraments, made in the first year of her gracious reign, with all diligence and severity . . .

And if any persons shall either in private houses or in public places make assemblies and therein use other rites of Common Prayer and administration of the sacraments than is prescribed in the said book, or shall maintain in their houses any persons being notoriously charged by books or preachings to attempt the alteration of the said orders, they shall see such persons punished with all severity, according to the laws of this realm, by pains appointed in the said Act.

And because these matters do principally appertain to the persons ecclesiastical and to the ecclesiastical government, her Majesty giveth a most special and earnest charge to all archbishops, bishops, archdeacons and deans, and all such as have ordinary jurisdiction, in such cases to have a vigilant eye and care to the observation of the orders and rites in the said book prescribed, throughout their cures and diocese . . . upon pain of her Majesty's high displeasure for their negligence and deprivation from their dignities and benefices or other censures to follow, according to their demerits.

[Dated 20 Oct. 1573.]

Cardwell, Documentary Annals, I. p. 348.

13. *Queen's Message*[1] *to Parliament*, 1576.

[9 March, 1576.] Mr Chancellor of the Exchequer, touching the petition for reformation of discipline in the Church, doth bring word from the Lords[2] that their Lordships having moved the Queen's Majesty touching the said petition, her Highness answered their Lordships:

That her Majesty, before the Parliament, had a care to provide in that case of her own disposition; and at the beginning of this session her Highness had conference therein with some of the bishops and gave them in charge to see due reformation thereof; wherein, as her Majesty thinketh, they will have good consideration, according unto her pleasure and express commandment in that behalf: and so did her Highness most graciously and honourably declare further that, if the said bishops should neglect or omit their duties therein, then her Majesty, by her supreme power and authority over the Church of England, would speedily see such good redress therein, as might satisfy the expectation of her loving subjects, to their good contentation.

Which message and report was most thankfully and joyfully received by the whole House with one accord.

Commons' Journals, I. p. 112.

[1] This message was sent in consequence of the introduction into the House of Commons of a bill for ecclesiastical reformation. Cp. above, pp. 120–124.

[2] i.e. of the Privy Council.

14. *The Queen's Message*[1] *to the House of Commons*, 1581.

7 March, 1581 ... Mr Chancellor of the Exchequer declareth, that Mr Vicechamberlain, both Mr Secretaries and himself have, according to their commission from this House, conferred with some of my lords the bishops touching the griefs of this House, for some things very requisite to be reformed in the Church; as, the great number of unlearned and unable ministers, the great abuse of excommunication for every matter of small moment, the commutation of penance, and the great multitude of dispensations and pluralities, and other things very hurtful to the Church; ... declaring further that they found some of the said lords the bishops, not only to confess and grant the said defects and abuses, wishing due redress thereof ... whereupon they afterwards joined in humble suit together unto her Highness and received her Majesty's most gracious answer: That, as her Highness had, the last session of parliament, of her own good consideration and before any petition or suit thereof made by this House, committed the charge and consideration thereof unto some of her Highness' clergy, who had not performed the same according to her Highness' commandment, so now her Majesty would eftsoons commit the same unto such others of them as with all convenient speed ... should see the same accomplished accordingly ... For the which as they did all render unto her Majesty most humble and dutiful thanks, so did Mr Chancellor further declare that the only cause why no due reformation hath been already had in the said petitions was only by the negligence and slackness of some others, and not of her Majesty nor of this House; alleging withal that some of the said bishops had yet done something in those matters, ... as in a more advised care of allowing and making of ministers, but yet in effect little or nothing to the purpose ...

Commons' Journals, I. p. 131.

15. *Whitgift and the Nonconformists*, 1583.

Successit Ioannes Whitgiftus. Huic Regina (quae ut in politicis, ita et in legibus ecclesiasticis nihil unquam laxandum

[1] In consequence of a resolution of the Commons that Mr Vice-Chamberlain and others should 'move the Lords of the Clergy to continue unto her Majesty the prosecution of the purposes of reformation.'

censuit) mandavit, ut ante omnia disciplinam ecclesiae Anglicanae et uniformitatem in sacris authoritate parlamentaria sancitam restauraret, quae praesulum conniventia, novatorum pervicacia, et nobilium quorundam potentia laxata iacuit; dum quidam e ministris regiam in ecclesiasticis authoritatem tecto impugnarent, sacramentorum administrationem a verbi praedicatione seiungerent, novos ritus pro arbitrio in privatis aedibus usurparent, Liturgiam, Sacramentorum administrationem constitutam ut sacris literis in quibusdam contraria et episcoporum vocationem omnino damnarent; ideoque templa adire recusarent, et plane schisma facerent, Pontificiis plaudentibus multosque in suas partes pertrahentibus, quasi nulla esset in Ecclesia Anglicana unitas ... Nec hi solum domi Ecclesiam exagitarunt, sed etiam foras qui ex his prodierunt, Robertus Brownus Cantabrigiensis in theologia tyro, a quo novi sectarii Brownistae dicti, et Richardus Harrisonus e trivio paedagogus. Hi enim ex suo spiritu de re religionis iudicare ausi, libris hac tempestate in Zelandia editis, et per Angliam dispersis, Ecclesiam Anglicanam quasi nullam damnarunt, multoque novi schismatis laqueis irretierunt; quamvis eorum libri regia authoritate prohibiti et ab eruditis nervose confutati unusque et alter e sectariis ad S. Edmundi, extremo supplicio affecti.

Camden, Annales, I. p. 346, s. a. 1583.

16. *Whitgift's articles touching preachers and other orders for the Church* [1], 1583.

I. That the laws late made against the recusants be put in more due execution, considering the benefit that hath grown unto the Church thereby, where they have been executed, and the encouragement which they and others do receive by remiss executing thereof.

II. That all preaching, reading, catechising and other such like exercises in private places and families whereunto others do resort, being not of the same family, be utterly inhibited ...

[1] Strype, *Whitgift*, I. 228, says of these: 'In the month of Sept^r. [1583] divers good articles were drawn up and agreed upon by himself [the archbishop] and the rest of the bishops of his province, and signed by them. Which the Queen also allowed of, and gave her royal assent unto, to give them the greater authority.'

III. That none be permitted to preach, read or catechise in the church or elsewhere unless he do four times in the year at least say service and minister the sacraments according to the Book of Common Prayer.

IV. That all preachers and others in ecclesiastical orders do at all times wear and use such kind of apparel as is prescribed unto them by the book of Advertisements and her Majesty's Injunctions *anno primo*.

V. That none be permitted to preach or interpret the Scriptures unless he be a priest or deacon at the least, admitted thereunto according to the laws of this realm.

VI. That none be permitted to preach, read, catechise, minister the sacraments or to execute any other ecclesiastical function . . . unless he first consent and subscribe to these articles following . . . videlicet:

(*a*) That her Majesty, under God, hath and ought to have the sovereignty and rule over all manner of persons born within her realms, dominions and countries, of what estate ecclesiastical or temporal soever they be; and that no foreign power, prelate, state or potentate hath or ought to have any jurisdiction . . . authority ecclesiastical or temporal[1] within her Majesty's said realms, dominions and countries.

(*b*) That the Book of Common Prayer and of ordering bishops, priests and deacons containeth nothing in it contrary to the word of God, and that the same may lawfully be used, and that he himself will use the form of the said book prescribed in public prayer and administration of the sacraments, and none other.

(*c*) That he alloweth the book of Articles of Religion, agreed upon by the archbishops and bishops in both provinces and the whole clergy in the Convocation holden at London in the year of our Lord God 1562 and set forth by her Majesty's authority, and that he believeth all the articles therein contained to be agreeable to the word of God.

Jo. Cant.	Jo. London.	Jo. Sarum.
Ed. Petriburg.	Tho. Lincoln.	Edm. Norwich.
Jo. Roffen.	Tho. Exon.	Marmad. Meneven.

Strype, Whitgift, I. pp. 228-232; *Reg.* I, *Whitgift*.

[1] spiritual (*Cardwell*, from *Reg.* I, *Whitgift*).

17. *Lord Burghley to Archbishop Whitgift*, 1584.

It may please your Grace, I am sorry to trouble you so often as I do, but I am more troubled myself, not only with many private petitions of sundry ministers, recommended from persons of credit for peaceable persons in their ministry, and yet by complaints to your Grace and other your colleagues in commission greatly troubled; but also I am now daily charged by councillors and public persons to neglect my duty in not staying these your Grace's proceedings so vehement and so general against ministers and preachers, as the Papists are thereby generally encouraged, all ill-disposed subjects animated, and thereby the Queen's Majesty's safety endangered . . . But now, my good Lord, by chance I am come to the sight of and instrument of twenty-four articles[1] of great length and curiosity, found in a Romish style, to examine all manner of ministers in this time, without distinction of persons. Which articles are entitled, *Apud Lamhith, May* 1584, *to be executed ex officio mero*, &c. . . . Which I have read, and find so curiously penned, so full of branches and circumstances, as I think the inquisitors of Spain use not so many questions to comprehend and to trap their preys. I know your canonists can defend these with all their perticels, but surely, under your Grace's correction, this judicial and canonical sifting of poor ministers is not to edify or reform. And, in charity, I think they ought not to answer to all these nice points, except they were very notorious offenders in papistry or heresy. Now my good Lord, forbear with my scribbling. I write with a testimony of a good conscience. I desire the peace of the Church. I desire concord and unity in the exercise of our religion. I favour no sensual and wilful recusants. But I conclude that, according to my simple judgment, this kind of proceeding is too much savouring

[1] Printed in the Appendix to *Strype's Whitgift*, III. p. 81 (Book III, No. IV); cf. *id.* I. p. 268. These articles, dated May, 1584, obliged the examinee to declare, among other things, that the Book of Common Prayer contained nothing repugnant to scripture, and to state whether he had refused to wear the surplice or to use the sign of the cross in baptism, the ring in marriage, and the form of words prescribed in burial, whether he had adhered strictly in all respects to the form of service prescribed in the Prayer-Book, whether he had subscribed to the three articles demanded of all ministers (see above, *Whitgift's Articles*, VI.), &c.

of the Romish inquisition, and is rather a device to seek for offenders than to reform any. This is not the charitable instruction that I thought was intended . . . It may be, as I said, the canonists may maintain this proceeding by rules of their laws, but though *omnia licent* yet *omnia non expediunt* . . .

Primo Julii, 1584. Your Grace's at commandment,

W. CECILL.

Strype, Whitgift, III. pp. 104–107; cf. *id.* I. p. 311.

18. *Archbishop Whitgift to Lord Burghley*, 1584.

My singular good Lord, In the very beginning of this action and so from time to time, I have made your Lordship acquainted with all my doings . . . Touching the twenty-four articles which your Lordship seemeth so much to mislike, . . . I cannot but greatly marvel at your Lordship's vehement speeches against them (I hope without cause), seeing it is the ordinary course in other courts likewise: as in the Star-Chamber, the Court of the Marches, and other places. And (without offence be it spoken) I think these articles to be more tolerable, and better agreeing with the rule of justice and charity, and less captious, than those in other courts . . . And, therefore, I see no cause why our judicial and canonical proceedings in this point should be misliked . . .

Your Lordship sayeth that *these articles are devised* [&c.]. The like may be said of the like orders in other courts also . . . I have not dealt as yet with any but such as have refused to subscribe and given manifest tokens of contempt of orders and laws . . . Neither hath any man thus been examined which hath not before been conferred with . . . I know your Lordship desireth the peace of the Church, but how is it possible to be procured, after so long liberty and lack of discipline, if a few persons, so meanly qualified as most of them are, should be countenanced against the whole state of the clergy of greatest account for learning, steadiness, wisdom, religion and honesty . . .

From Croydon, 3 July, 1584. To your Lordship most bound

JO. CANTUAR.

Strype, Whitgift, III. pp. 107–112; cf. *id.* I. pp. 317–334.

19. *Petition of the House of Commons for ecclesiastical reform,* 1584.

The humble petitions[1] of the Commons of the Lower House of Parliament to be offered to the consideration of the right honourable the lords spiritual and temporal of the Higher House.

(1) Where by a statute[2] made the thirteenth of her Majesty's reign it was enacted, That none should be made a minister unless he should be able to answer and render to the ordinary an account of his faith in Latin, according to certain articles[3] set forth in a synod holden in the year 1562[4] and mentioned in the said statute, or have special gift and ability to be a preacher; it may please their honourable lordships to consider whether it were meet to be ordained, that so many as have been taken into the ministry since the making of this statute and be not qualified according to the true meaning and intent of the same, be within a competent time suspended from the ministry . . .

(2) That where in a synod holden in the year 1575, it was provided[5], That unlearned ministers heretofore made by any bishops should not from henceforth be admitted to any cure or spiritual function, it may also like their lordships to advise whether so many as have been since that time admitted contrary to the form of that article, shall be within a competent time removed; and that for better explanation of that article such be taken for unlearned, as be not qualified according to the statute before recited . . .

(3) . . . That none hereafter be admitted to the ministry but such as shall be sufficiently furnished with gifts to perform so high and so earnest a charge, and that none be superficially allowed as persons qualified according to the statute of the thirteenth of her Majesty's reign before recited, but with

[1] In the fifth Parliament of Elizabeth's reign, certain petitions were presented to the House of Commons, for the introduction of various changes desired by the Puritan party. On 16 Dec., 1584, a Committee was appointed, on the motion of Sir W. Mildmay, to reduce the contents of these petitions into articles which might be laid before the House of Lords, with the object of joint action by both Houses. The above articles were drawn up by this committee; see note on p. 219.

[2] Stat. 13 Eliz. 12.

[3] The Thirty-Nine Articles.

[4] 1562-3.

[5] Canons of 1575, § III.

deliberate examination of their knowledge and exercise in the holy scriptures answerable to the true meaning of that statute.

(4) Further, That for so much as it is prescribed in the form of ordering ministers that *the bishops with the priests present shall lay their hands severally upon the head of every one that receiveth orders*, without mention of any certain number of priests that shall be present; and that in a statute[1] made in the twenty-first of King Henry the Eighth it is affirmed that a bishop must occupy six chaplains in giving of orders; it may be considered whether it may be meet to provide that no bishop shall ordain any minister of the word and sacraments, but with the assistance of six other ministers at the least, and thereto such only be chosen as be of good report for their life, learned, continually resiant upon their benefices with cure . . .

(5) . . . That none be admitted to be a minister of the word and sacraments but in a benefice having cure of souls then vacant in the diocese of such a bishop as is to admit him, or to some place certain where such minister to be made is offered to be entertained a preacher, or such graduates as shall be at the time of their admission into the ministry placed in some fellowship or scholarship within the Universities, or at the least that trial be made of this order for such time as to their honors' wisdoms shall be thought convenient.

(6) . . . That none be instituted . . . to any benefice with cure of souls or received to be curate in any charge without some competent notice before given to the parish where they shall take their charge, and some reasonable time allowed wherein it may be lawful to such as can discover any defect in conversation of life in the person who is to be so placed as is aforesaid, to come and object the same.

(7) That for the encouragement of many desirous to enter into the ministry . . . hereafter no oath or subscription be tendered to any that is to enter into the ministry or to any benefice with cure, or to any place of preaching, but such only as be expressly prescribed by the statutes of this realm; saving that it shall be lawful for every ordinary to try any minister presented to any benefice within his diocese by his oath, whether he is to enter corruptly or incorruptly into the same.

[1] It does not appear what statute is referred to.

(8) Whereas sundry ministers of this realm, diligent in their calling and of good conversation and life, have of late years been . . . molested by some exercising ecclesiastical jurisdiction, for omitting small portions or some ceremony prescribed in the Book of Common Prayer, . . . [that] such ministers as in the public service of the Church and the administration of the sacraments do use the Book of Common Prayer allowed in the statutes of this realm, and none other, be not from henceforth called in question for omissions or changes of some portions or rite, as is aforesaid, so their doings therein be void of contempt.

(9) That, forasmuch as it is no small discouragement to many that they see such as be already in the ministry openly disgraced by officials and commissaries, who daily call them to their courts to answer complaints of their doctrine and life or breach of orders prescribed by the ecclesiastical laws and statutes of this realm, it may please the reverend fathers, our archbishops and bishops, to take to their own hearings, with such grave assistance as shall be thought meet, the causes of complaint made against any known preacher within their diocese . . .

(10) It may also please the said reverend fathers to extend their charitable favour to such known godly and learned preachers as have been suspended or deprived for no public offence of life, but only for refusal to subscribe to such articles as lately have been tendered in diverse parts of the realm or for such like things, that they may be restored to their former charges or places of preaching, or at the least set at liberty to preach where they may be hereafter called.

(11) Further, that it may please the reverend fathers aforesaid to forbear their examinations *ex officio mero* of godly and learned preachers, not detected unto them for open offence of life or for public maintaining of apparent error in doctrine; and only to deal with them for such matters as shall be detected in them. And that also her Majesty's commissioners for causes ecclesiastical be required, if it shall so seem good, to forbear the like proceeding against such preachers, and not to call any of them out of the diocese where he dwelleth, except for some notable offence, for reformation whereof their aid shall be required by the ordinary of the said preachers.

(12) Item, That for the better increase of knowledge of such as shall be employed in the ministry . . . it may be permitted to the ministers of every archdeaconry . . . to have some common exercises and conferences among themselves to be limited and prescribed by their ordinaries . . .

(13) Where complaint is made of the abuse of excommunication . . . it may please your lordships to consider whether some bill might not be conveniently framed to this effect, viz. That none having ecclesiastical jurisdiction shall in any matter . . . other than in the cases hereafter mentioned, give or pronounce any sentence of excommunication; and that, for the contumacy of any person in cases depending before them, it shall be lawful to pronounce him only *contumax*, and so to denounce him publicly; and if upon such denunciation . . . the party shall not submit himself . . . within forty days, then it shall be lawful to signify his contumacy in such manner and sort and to such court as heretofore hath been used for persons so long standing excommunicate; and that upon such certificate a writ *de contumace capiendo* shall be awarded of like force . . . as the writ *de excommunicato capiendo* is.

(14) Nevertheless, forasmuch as it seemeth not meet that the Church should be left without this censure of excommunication, it may be provided that for enormous crimes, as incest, adultery and such like, the same be executed by the reverend fathers the bishops themselves with the assistance of grave persons, or else by other persons of calling in the church with like assistance and with such other considerations as upon deliberation shall be herein advised of, and not by chancellors, commissaries or officials, as hath been used.

(15) Where licences of non-residence are offensive in the church and be occasion that a great multitude of this realm do want instruction, and it seemeth that cases certain wherein the same may be allowed can hardly be devised, . . . it may therefore be considered by their honourable lordships, whether it were more convenient or necessary that the use of them were utterly removed out of the Church; and so likewise of pluralities.

(16) But, howsoever it shall be thought convenient to order these faculties, . . . may it please their lordships to consider, whether it were expedient to provide that none now having

licence of non-residence . . . shall hereafter be permitted to enjoy the benefit of such licence, except he depute an able and sufficient preacher to serve the cure, and that no curate by him placed be suffered to continue in his service of that cure, except he be of sufficient ability to preach and doth weekly teach that congregation and perform the other duties of instructing the youth in the catechism required by her Majesty's injunctions in that behalf[1].

Strype's Whitgift, III. pp. 118–124; *D'Ewes' Journals*, pp. 357–9; cf. *id.* pp. 359, 360.

20. *Puritan Petition to the Queen*, 1585.

Certain humble petitions[2], which are in most humble manner to be presented to the godly consideration of our sovereign lady Queen Elizabeth . . .

IX. . . . That every archbishop and bishop of this Church . . ., if it be found . . . that the office of the archbishop or bishop, as it is now, is both necessary and profitable for the Church . . ., shall . . . have assigned . . . unto him, by the same authority by which he is chosen archbishop or bishop, eight, ten, twelve, or more preaching pastors, doctors and deacons, such as are resident on their own parishes and charges, within his and their diocese, together with some other grave and godly men of worship or justices of peace within that shire, in such a certain number as shall be thought good to the Queen and her council, which may be assistant to him . . .; and that the said archbishop and bishop shall, with them and by their counsel, advise and consent, hear and determine every cause ecclesiastical which is now used to be heard before any archbishop and bishop or ordinary . . .

X. And that . . . every pastor resident on his charge . . . shall by the advice and direction of the bishop of the diocese, and of his associates, present to the said bishop and his

[1] This petition appears to have been laid before the House of Lords shortly before the adjournment on 21 Dec., 1584. The Lords deferred their answer till 22 Feb., 1585. The Lord Treasurer then declared that some of the articles appeared to the Lords to be unnecessary, while others were already provided for.

[2] This petition is said by Strype (*Annals*, V. p. 320) to have been endorsed by Lord Burghley, 'Mr Sampson's book to the parliament.'

associates, four, six or eight inhabitants of his parish, such as shall be thought . . . meet to be the associates and seniors . . . with the said pastor, to govern his said parish with him; to hear and order with him such quarrels, offences, and disorders in life and manners, as should be among the same parishioners. And if the causes and quarrels . . . be such that the same pastor and his associates or seniors cannot determine the same, . . . then shall the said pastor . . . bring the said cause before the bishop of the diocese and the elders, which are to him associate . . .

XIII. That no one bishop do hereafter proceed in admitting or depriving of any pastor by his sole authority, nor in excommunicating any faulty person, nor in absolving any person that is excommunicated, nor in the deciding and determining of any cause ecclesiastical, without the advice and consent of the aforesaid seniors and associates joined with him . . .

XIV. Moreover, . . . that it shall not be lawful for any man to appeal from the sentence and judgment of the bishop, given with the advice aforesaid . . . but only to the next provincial synod . . .

XV. And that it may be lawful for the provincial synod, being called by the Queen, . . . to admit every appeal so made . . . and to give sentence upon it . . . From the which sentence of the provincial synod it shall not be lawful for any man to appeal . . . but only to a national and general council of the whole nation.

XVI. That such a provincial synod be called every year once, both in the province of Canterbury and also of York . . . And that a national or general council for the whole English and Irish nations be called ever hereafter, once in seven years, by the Queen, her heirs and successors . . . And that from henceforth, the yearly synods, visitations and courts, kept ordinarily for money by the sole authority of archbishops, bishops, archdeacons, chancellors [&c.] do cease.

XVII. . . . That neither the said archbishops . . . nor the bishops . . . do hereafter, by their sole and private authority, make and publish any injunctions touching religion or church government . . .

XXIV. That . . . in every synod hereafter to be called, . . .

the bishops, deans, archdeacons, clerks, and such as shall be called by order to the synod, do all sit together brotherly in one house; and that they do choose one of themselves to be the *moderator* or *prolocutor* of the synod . . . That there may be also by the appointment of the Queen and her council, joined to them, to sit with them in the synod or convocation, some other godly learned men which are not in the order of the ministry, . . . to give their consent to the conclusions which shall be made.

XXIX. . . . And to the end that the said bishops may hereafter do that office which shall be committed to them the more sincerely, we desire that all they . . . may be delivered from the burden of all worldly pomp, honour and charge; . . . and that they also be set so free from the administration of all civil causes and offices, that they may wisely apply themselves to the labour of the gospel and ecclesiastical function in diligence and sincerity . . . *Strype, Annals*, VI. pp. 278–297; cf. V. p. 320.

21. *The Queen's speech in Parliament*[1], 1585.

My Lords and ye of the Lower House: No prince herein, I confess, can be surer tied or faster bound than I am with the link of your good will, and can for that but yield a heart and a head to seek for ever all your best; yet one matter toucheth me so near, as I may not overskip, religion, the ground on which all other matters ought to take root, and being corrupted may mar all the tree. And that there be some fault-finders with the Order of the Clergy, which so many make a slander to myself and the Church, whose over-ruler God hath made me; whose negligence cannot be excused, if any schisms or errors heretical were suffered: thus much I must say, that some faults and negligences may grow and be, as in all other great charges it happeneth, and what vocation without? All which if you my Lords of the Clergy do not amend, I mean to depose you. Look ye therefore well to your charges. This may be amended without heedless or open exclamations . . . I see many over-bold with God Almighty, making too many subtle scannings of His blessed will, as lawyers do with human testaments. The presumption is so great, as I may not suffer

[1] Made on the occasion of proroguing parliament, 29 March, 1585.

it (yet mind I not hereby to animate Romanists, which what adversaries they be to mine estate is sufficiently known) nor tolerate new-fangledness. I mean to guide them both by God's holy true rule. In both parts be perils; and of the latter I must pronounce them dangerous to a kingly rule, to have every man, according to his own censure, to make a doom of the validity and privity of his prince's government, with a common veil and cover of God's word, whose followers must not be judged but by private men's exposition. God defend you from such a ruler that so evil will guide you.

D'Ewes' Journals, p. 328.

22. *Canons of* 1584–5.

Articuli per . . . clerum Cantuariensis provinciae in synodo inchoata Londini [24 Nov. 1584] . . . stabiliti, et regia auctoritate approbati et confirmati.

IV. *De quibusdam circa excommunicationem excessibus coercendis sive reformandis.*

(1) Quia excommunicationis usus in ecclesia perpetuae legis vigorem iam obtinuit . . . ideo absque grandi mutatione totius eiusce iurisdictionis et plurimarum huius regni legum innovari vel alterari nequit; nihilominus, ut excommunicatio, quae auctoritatis ac disciplinae ecclesiasticae quasi nervus quidam ac vinculum habendum est, ad pristinum suum usum, decus et dignitatem reducatur; cautum est ut quotiescunque censura ista in immediatam poenam cuiusvis notoriae haereseos, schismatis, simoniae, periurii, usurae, incestus, adulterii seu gravioris alicuius criminis venerit infligenda, sententia ipsa per archiepiscopum, episcopum, decanum, archidiaconum vel praebendarium (modo sacris ordinibus et ecclesiastica iurisdictione praeditus fuerit) in propria persona pronunciabitur, una cum eiusmodi frequentia et assistentia quae ad maiorem rei auctoritatem conciliandam conducere videbitur.

V. *De beneficiorum pluralitate cohibenda.*

Quod nemini in posterum facultas sive indulgentia concedetur de pluribus beneficiis simul retinendis, nisi huiusmodi tantum, qui pro eruditione sua et maxime digni . . . cense-

buntur: nimirum, ut is qui huiusmodi facultate fruiturus est, sit ad minimum artium magister et publicus ac idoneus verbi divini concionator; ita tamen ut idonea etiam cautione obstrictus teneatur, de personali sua residentia in singulis beneficiis per bonam anni cuiusque partem facienda, et quod eiusmodi beneficia triginta milliarium spatio ad summum non distent abinvicem. Denique quod idoneum curatum habeat, qui plebem eius parochiae, in qua non residebit, instituat ac informet, modo facultates eiusdem beneficii talem commode sustinere posse archiepiscopo vel eius dioeceseos episcopo videbuntur . . .

23. *Doctrines of the Independents.*

(1) . . . Amongst whom there were very forward to the like presumption Henry Barrow, gentleman, and John Greenwood, clerk, who were convented before the High Commissioners for Causes Ecclesiastical in November, 1587 [1586], for their schismatical and seditious opinions, namely, that our Church is no Church, or at the least no true Church; yielding these reasons therefore, That the worship of the English Church is flat idolatry: that we admit into our Church persons unsanctified: that our preachers have no lawful calling: that our government is ungodly: that no bishop or preacher preacheth Christ sincerely and truly: that the people of every parish ought to choose their bishop, and that every elder, though he be no doctor nor pastor, is a bishop: that all the precise which refuse the ceremonies of the Church and yet preach in the same Church, strain a gnat and swallow a camel and are close hypocrites and walk in a left-handed policy, as Master Cartwright: . . . that set prayer is blasphemous.

Paule's Life of Whitgift, 1612, p. 43.

(2) *Q.* Whether he thinketh that any Liturgies . . . may be imposed upon the Church . . .? *A.* I find in the word of God no such authority given to any man, neither such liturgies prescribed or used in the primitive Churches; and therefore hold it high presumption to impose any one devised Apocrypha prayer upon the Church . . . I think the Queen's Majesty supreme governor of the whole land, and over the Church also, bodies and goods; but I think that no prince . . .

neither the Church itself, may make any laws for the Church other than Christ hath already left in his word. . . . The holy government of Christ belongeth not to the profane or unbelieving . . . but over every particular congregation of Christ there ought to be an eldership, and every such congregation ought to their uttermost power to endeavour thereunto.

Barrowe's Examination: Harl. Misc. ed. 1745, IV. p. 332.

(3) They [the magistrates] may do nothing concerning the Church, but only civilly and as civil magistrates: that is, they have not that authority over the Church as to be prophets or priests or spiritual kings, as they are magistrates over the same, but only to rule the commonwealth in all outward justice, to maintain the right welfare and honour thereof with outward power, bodily punishment and civil forcing of men. And therefore also, because the Church is in a commonwealth, it is of their charge: that is, concerning the outward provision and outward justice, they are to look to it; but to compel religion, to plant churches by power, and to force a submission to ecclesiastical government by laws and penalties belongeth not to them. . . .

The Church planted or gathered is a company or number of Christians or believers, which, by a willing covenant made with their God, are under the government of God and Christ and keep his laws in one holy communion; because Christ hath redeemed them unto holiness and happiness for ever, from which they were fallen by the sin of Adam.

Works of Robert Browne (quoted by Dexter, Congregationalism, pp. 101, 105).

24. *Martin Marprelate libels,* 1588.

Ut externo bello, ita etiam interno schismate hoc tempore laboravit Anglia: schismatica enim pravitas semper bello ardente maxime luxuriat. Nec certe contumax in ecclesiasticos magistratus impudentia et contumeliosa improbitas insolentius alias se exercuit. Etenim cum Regina, quae semper eadem, novatores in religione audire noluerit, quos ecclesiasticae administrationis et regiae praerogativae nervos succisuros existimavit, nonnulli ex iis qui Genevensis Ecclesiae

disciplinam unice admirabantur non aliam rationem constituendi eandem in Anglia excogitari posse putarunt, quam Anglicam hierarchiam insectando et praesulibus invidiam apud populum conflando.' Hi itaque et in hierarchiam et in praesules probrosis editis libellis, quibus tituli erant Martinus Praesulibus exitiosus vel Praesulo-Mastix, Mineralia, Diotrephes, Demonstratio Disciplinae, &c., calumniis et convitiis virulentissimis adeo scurriliter debacchati sunt, ut authores non pietatis cultores sed e popina ganeones viderentur. Authores tamen erant Penrius et Udallus verbi ministri et Jobus Throcmortonus vir doctus et facete dicax . . .

Camden, Annales, I. p. 497; s. a. 1588.

25. *Attacks on the High Commission*, 1591.

Nec hi soli sed etiam alii qui receptam in Ecclesia Anglicana disciplinam episcoporum vocationem damnando et praesules contumeliose calumniando hactenus frustra impugnarunt, nunc, pertractis in eorum partes nonnullis iuris Anglici peritis, in eorum iurisdictionem et delegatam a Regina in ecclesiasticis causis authoritatem ut prorsus iniustam et linguas et calamos strinxerunt, declamando ubique etiam libris publicatis homines contra regni leges in foris ecclesiasticis indigne opprimi; Reginam eiusmodi authoritatem ex iure non posse delegare nec alios exercere delegatam; fora illa non posse a reo iusiurandum ex officio exigere, cum nemo seipsum accusare teneatur; iusiurandum illud homines ad sui condemnationem cum ignominiosa confusione, vel in spontaneum periurium cum animarum exitio praecipitare; praeterea de aliis quam matrimonialibus et testamentariis causis non debere cognoscere. . . .

Contra iuris ecclesiastici professores regiam in ecclesiasticis authoritatem propugnarunt, utique parlamentaria authoritate in Regina investitam. Hanc oppugnare nihil aliud esse quam in maiestatem irruere et sacrosanctae praerogativae violato obsequii iuramento insultare; fora ecclesiastica de aliis quam matrimonialibus et testamentariis posse cognoscere, ex statuto *Circumspecte agatis* et *Articulis Cleri* sub Edwardo Primo docuerunt. . . . Regina, haud ignara suam authoritatem per episcoporum latera in hoc negotio peti, adversantium impetus

tacite infregit, et ecclesiasticam iurisdictionem illaesam conservavit. *Camden, Annales*, II. p. 38, a. a. 1591.

26. *The Lambeth Articles*, 1595.

Articuli approbati a Reverendissimis Dominis D. D. Joanne Archiepiscopo Cantuariensi et Richardo Episcopo Londinensi et aliis theologis, Lambethae, Novembris 20, anno 1595.

I. Deus ab aeterno praedestinavit quosdam ad vitam et quosdam ad mortem reprobavit.

II. Causa movens aut efficiens praedestinationis ad vitam non est provisio fidei aut perseverantiae aut bonorum operum aut ullius rei quae insit in personis praedestinatis, sed sola voluntas beneplaciti Dei.

III. Praedestinatorum praefinitus et certus numerus est, qui nec augeri nec minui potest.

IV. Qui non sunt praedestinati ad salutem necessario propter peccata sua damnabuntur.

IX. Non est positum in arbitrio aut potestate uniuscuiusque hominis servari. *Strype, Whitgift*, II. p. 280.

27. *Canons of* 1597.

III. *Ut beneficiati in suis beneficiis curatis hospitalitatem exerceant.*

Quoniam ecclesiarum cathedralium canonici sive praebendarii ecclesiastica beneficia curata alibi saepius possident et tamen . . . ad cathedrales convolant ibique moram faciunt longiorem, unde nec curae parochianorum illis commissae satis prospicitur, nec pauperes domi suae, sicut difficultas huius temporis exigit, aluntur atque sustentantur; idcirco nos . . . decernendum censemus ut omnes canonici sive praebendarii, qui beneficia curata unum sive duo obtinent nec residentiarii necessarii in suis ecclesiis cathedralibus existunt, ultra tempus quo in cathedralibus residere tenentur, a beneficiis suis curatis praetextu praebendarum se non absentent. . . . Quod autem ad eos attinet qui ad residentiam . . . obligantur . . . eos ita inter se anni tempora partiri volumus, quoad residentiam in cathedralibus habendam, ut eorum aliqui in ecclesiis illis semper adsint et personaliter resideant . . .

XI. *De excessibus apparitorum reformandis.*

Praeterea quoniam excessibus et gravaminibus quae per apparitores inferri dicuntur remedium cupimus adhibere opportunum, videtur ut apparitorum multitudo, quantum fieri poterit, restringatur . . .

Praeterea in causis officii et correctionis ne quae fiant citationes generales, quae vulgo 'Quorum nomina' dicuntur, nisi partes citandae veris nominibus expressis . . . scribantur. . . .

Cardwell, Synodalia, I. p. 147.

28. *Court of High Commission.*

(a) *First Commission*, 1559.

[I.] Elizabeth by the grace of God [&c.]. To the reverend father in God Mathew Parker, nominated bishop of Canterbury, and Edmond Grindall, nominated bishop of London, and to our right trusted and right well-beloved councillors Francis Knowles our vice-chamberlain, and Ambrose Cave, knights, and to our trusty and well-beloved Anthony Cooke and Thomas Smyth, knights, William Bill our almoner, Walter Haddon and Thomas Sackford, masters of our requests, Rowland Hill and William Chester, knights, Randoll Cholmely and John Southcote, serjeants at the law, William May, doctor of law, Francis Cave, Richard Gooderick and Gilbert Gerrard, esquires, Robert Weston and Thomas Huick, doctors of law, greeting.

[II.] Where at our Parliament holden at Westminster the 25th day of January and there continued and kept until the eighth of May then next following, amongst other things, there was two Acts and Statutes made and established, the one entitled 'An Act for the uniformity of Common Prayer [&c.],' and the other entitled 'An Act restoring to the Crown the ancient jurisdiction [&c.],' as by the same several Acts more at large doth appear: and where divers seditious and slanderous persons do not cease daily to invent and set forth false rumours, tales, and seditious slanders, not only against us and the said good laws and statutes, but also have set forth divers seditious books within this our realm of England, meaning thereby to move and procure strife, division and dissension amongst our loving and obedient subjects, much to the disquieting of us and our people:

[III.] Wherefore we, earnestly minding to have the same Acts before mentioned to be duly put in execution, and such persons as shall hereafter offend in anything contrary to the tenor and effect of the said several statutes to be condignly punished, and having especial trust and confidence in your wisdoms and discretions, have authorised, assigned and appointed you to be our commissioners, and by these presents do give our full power and authority to you, or six of you, whereof you, the said Mathew Parker, Edmond Grindall, Thomas Smyth, Walter Haddon, Thomas Sackford, Richard Gooderick and Gilbert Gerrard, to be one, from time to time hereafter, during our pleasure, to enquire as well by the oaths of twelve good and lawful men, as also by witnesses and all other ways and means ye can devise for all offences, misdoers [sic] and misdemeanours done and committed and hereafter to be committed or done contrary to the tenor and effect of the said several acts and statutes and either of them and also of all and singular heretical opinions, seditious books, contempts, conspiracies, false rumours, tales, seditions, misbehaviours, slanderous words or shewings, published, invented or set forth, or hereafter to be published, invented or set forth by any person or persons against us or contrary or against any the laws or statutes of this our realm, or against the quiet governance and rule of our people and subjects in any county, city, borough or other place or places within this our realm of England, and of all and every the coadjutors, counsellors, comforters, procurers and abettors of every such offender.

[IV.] And further, we do give power and authority to you or six of you [quorum as before], from time to time hereafter during our pleasure, as well to hear and determine all the premises, as also to enquire, hear and determine all and singular enormities, disturbances and misbehaviours, done and committed or hereafter to be done or committed in any church or chapel, or against any divine service, or the minister or ministers of the same, contrary to the laws and statutes of this realm: and also to enquire of, search out and to order, correct and reform all such persons as hereafter shall or will obstinately absent themselves from church and such divine service as by the laws and statutes of this realm is appointed to be had and used.

[V.] And also we do give and grant full power and authority unto you and six of you [quorum as before] from time to time and at all times during our pleasure, to visit, reform, redress, order, correct and amend in all places within this our realm of England all such errors, heresies, crimes, abuses, offences, contempts and enormities spiritual and ecclesiastical wheresoever [sic] which by any spiritual or ecclesiastical power, authority or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended, to the pleasure of Almighty God, the increase of virtue, and the conservation of the peace and unity of this our realm, and according to the authority and power limited, given and appointed by any laws or statutes of this realm.

[VI.] And also that you or six of you [quorum as before] shall likewise have full power and authority from time to time to enquire of and search out all masterless men, quarrellers, vagrant and suspect persons within our city of London, and ten miles compass about the same city, and of all assaults and affrays done and committed within the same city and compass aforesaid.

[VII.] And also we give full power and authority unto you and six of you, as before, summarily to hear and finally determine, according to your discretions and by the laws of this realm, all causes and complaints of all them, which in respect of religion, or for lawful matrimony contracted and allowed by the same, were injuriously deprived, defrauded or spoiled of their lands, goods, possessions, rights, dignities, livings, offices, spiritual or temporal; and them so deprived, as before, to restore into their said livings, and to put them in possession, amoving the usurpers in convenient speed, as it shall seem to your discretions good, by your letters missive or otherwise, all frustratory appellations clearly rejected.

[VIII.] And further, we do give power and authority unto you and six of you [quorum as before], by virtue hereof, not only to hear and determine the same and all other offences and matters before mentioned and rehearsed, but also all other notorious and manifest advoutries, fornications and ecclesiastical crimes and offences within this our realm, according to your wisdoms, consciences and discretions.

[IX.] Willing and commanding you or six of you [quorum as before] from time to time hereafter to use and devise all such politic ways and means for the trial and searching out of all the premises, as by you or six of you, as aforesaid, shall be thought most expedient and necessary; and upon due proof had, and the offence or offences before specified, or any of them, sufficiently proved against any person or persons by confession of the party or by lawful witnesses or by any due mean before you or six of you [quorum as before], that then you or six of you, as aforesaid, shall have full power and authority to award such punishment to every offender by fine, imprisonment or otherwise, by all or any of the ways aforesaid, and to take such order for the redress of the same, as to your wisdoms and discretions [shall be thought meet and convenient][1].

[X.] [And further we do give full power and authority unto you][1] or six of you [quorum as before] to call before you or six of you as aforesaid from time to time all and every offender or offenders, and such as [2][to] you or six of you, as aforesaid, shall seem to be suspect persons in any of the premises; and also all such witnesses as you or six of you, as aforesaid, shall think [meet][1] to be called before you or six of you as aforesaid and them and every of them to examine upon their corporal oath, for the better trial and opening of the premises or any part thereof.

[XI.] And if you or six of you, as aforesaid, shall find any person or persons obstinate or disobedient either in their [appearance][3] before you or six of you as aforesaid at your calling or commandment or else not accomplishing or not obeying your order, decrees and commandments in anything touching the premises or any part thereof; that then you, or six of you, as aforesaid, shall have full power and authority to commit the same person or persons so offending to ward, there to remain until he or they shall be by you or six of you, as aforesaid, enlarged and delivered.

[XII.] And further we do give unto you and six of you [quorum as before] full power and authority to take and

[1] The words 'shall be thought . . . authority unto you,' and the word 'meet' below, are wanting in the roll (as well as in that of 1562), and are supplied from the Commission of 1572.

[2] 'by' in original.

[3] 'apparell' in original.

receive by your discretions of every offender or suspect person to be convented or brought before you a recognisance or recognisances, obligation or obligations to our use, in such sum or sums of money as to you or six of you, as aforesaid, shall seem convenient, as well for their personal appearance before you or six of you, as aforesaid, as also for the performance and accomplishment of your orders and decrees, in case you or six of you, as aforesaid, shall see it so convenient.

[XIII.] And further, our will and pleasure is that you shall appoint our trusty and well-beloved John Skinner to be your register of all your acts, decrees and proceedings by virtue of this commission, and in his default one other sufficient person, and that you or six of you, as aforesaid, shall give such allowance to the same register for his pains and his clerks, to be levied of the fines and other profits that shall rise by force of this commission and your doings in the premises, as to your discretions shall be thought meet.

[XIV.] And further, our will and pleasure is that you or six of you, as aforesaid, shall name and appoint one other sufficient person to gather up and receive all such sums of money as shall be assessed and taxed by you or six of you as aforesaid, for any fine or fines upon any person or persons for their offences: and that you or six of you, as aforesaid, by bill or bills signed with your hands, shall and may assign and appoint as well to the said person for his pains in recovering the said sums, as also to your messengers and attendants upon you for their travail, pains and charges to be sustained for or about the premises or any part thereof, such sums of money for their rewards, as by you or six of you, as aforesaid, shall be thought expedient: willing and commanding you or six of you, as aforesaid, after the time this our commission expired, to certify into our court of exchequer as well the name of the said receiver as also a note of such fines as shall be set or taxed before you; to the intent that, upon the determination of account of the said receiver, we be assured of that, that to us shall justly appertain: willing and commanding also our auditors and other officers, upon the sight of the said bills signed with the hand of you or six of you, as aforesaid, to make unto the said receiver due allowances according to the said bills upon his accounts.

[XV.] Wherefore we will and command you, our commissioners, with diligence to execute the premises with effect; any of our laws, statutes, proclamations or other grants, privileges or ordinances, which be or may seem to be contrary to the premises, notwithstanding.

[XVI.] And more, we will and command all and singular justices of the peace, mayors, sheriffs, bailiffs, constables and other our officers, ministers and faithful subjects, to be aiding, helping and assisting, and at your commandment in the due execution hereof, as they tender our pleasure, and will answer to the contrary at their utmost perils.

[XVII.] And we will and grant that these our letters patents shall be a sufficient warrant and discharge for you and every of you against us, our heirs and successors, and all and every other person or persons whatsoever they be, of and for or concerning the premises or any parcel hereof, of or for the execution of this our commission or any part thereof.

Witness the Queen at Westminster, the 19th day of July[1].

PER IPSAM REGINAM.

Patent Rolls, 1 *Eliz.* part 9.

(b) *The Commission of* 1562[2].

[I.] Elizabeth, &c. To our trusty and well-beloved the most reverend father in God, Mathew Archbishop of Canterbury, Primate and Metropolitan of all England, the reverend father in God Edmund Bishop of London, Richard Bishop of Ely, Edmund Bishop of Rochester, and to our right trusty and well-beloved Counsellors Francis Knolles our Vice-chamberlain, Ambrose Cave Chancellor of our Duchy, William Petre Chancellor of the Order of the Garter Knights, and to our trusty and well-beloved Anthony Coke and Thomas Smith Knights, Walter Haddon and Thomas Sackford Masters of the requests, William Chester and William Garret Knights, Randolf Cholmeley and John Sowthcote serjeants at the law, Alexander Nowell

[1] This Commission is printed, not very correctly, in *Cardwell's Documentary Annals*, vol. I. p. 223.

[2] This Commission is headed 'Commissio Matheo Cantuar. Archiepiscopo et aliis ad puniendum hujusmodi personas qui sunt repugnantes divino servicio.' It differs from the Commission of 1559 in the number of the quorum (§ III), and it adds two new sections (§§ XV, XVI).

Dean of Paul's, Gabriel Goodman Dean of Westminster, Gilbert Gerrard Esquire our Attorney General, Robert Nowell Attorney of our Court of Wards and Liveries, Richard Ousley Clerk of our Duchy, Peter Osbourne one of the Remembrancers of our Exchequer, David Lewes judge of our high Court of the Admiralty, Robert Weston Dean of the Arches, Thomas Huyck Chancellor to the Bishop of London, Masters of our Court of Chancery, Thomas Yale Chancellor to the Archbishop of Canterbury, William Drury Commissary of the faculties Doctors of the Law, and Thomas Watts Archdeacon of Middlesex, greeting. . . .

[III.] Wherefore we, earnestly minding to have the same several acts before mentioned to be duly put in execution and such persons as shall hereafter offend in anything contrary to the tenor and effect of the said several statutes to be condignly punished, and having especial trust and confidence in your wisdoms and discretions, have authorized, assigned and appointed you to be our commissioners, and by these presents do give full power and authority unto you or three of you, whereof you the said Archbishop of Canterbury or you Bishops of London, Ely, Rochester or you the said Thomas Smith, Walter Haddon, Thomas Sackford, or Gilbert Gerrarde to be one, from time to time hereafter during our pleasure to enquire as well by the oaths of twelve good and lawful men as also by witnesses and all other ways and means ye can devise of all offences and misdemeanours done and committed and hereafter to be committed and done contrary to the tenor and effect of the said several acts and statutes . . .

[XV.] And whereas there were divers cathedral and collegiate churches, grammar-schools and other ecclesiastical incorporations erected, founded and ordained by the late king of famous memory our dear father King Henry the Eighth and by our dear late brother King Edward the Sixth and by our late sister Queen Mary and by the late Lord Cardinal Poole, the ordinances, rules and statutes whereof be either none at all or altogether imperfect or, being made of such time as the crown and regiment of this realm was subdued to the foreign authority of Rome, they be in some points contrary to the present state of religion within the same; We therefore do give full power and

authority to you or to six of you, of whom we will the aforenamed Archbishop of Canterbury, the aforesaid Bishops of London, Ely or Rochester always to be one, to cause and command in our name all and singular the ordinances, rules and statutes of all and every the said cathedral and collegiate churches, grammar-schools and other ecclesiastical incorporations and foundations to be brought and exhibited before you or six of you as is aforesaid; willing and commanding you or six of you, as is aforesaid, upon the exhibiting and upon diligent and deliberate view, search and examination of the said statutes, rules, ordinances, letters patents and writings, as is aforesaid, not only to make speedy and undelayed certificate of the enormities, disorders, defects, surplusages or wants of all and singular the said statutes, rules and ordinances, but also with the same to advertise us of such good orders, rules and statutes as you or six of you, as is aforesaid, shall think meet and convenient to be by us made and set forth for the better order and rule of the said several erections and foundations and the possessions and revenues of the same, and as may best tend to the honour of Almighty God, the increase of virtue and unity in the same places, and the public weal and tranquillity of this our realm, to the end we may thereupon further proceed to the altering, making and establishing of the same and other statutes, rules and ordinances according to the late act[1] of Parliament thereof made in the first year of our reign.

[XVI.] And whereas we are also informed that there remaineth as yet still within this our realm divers perverse and obstinate persons which do refuse to acknowledge, confess and set forth our superiority, prerogative and preeminence within this our realm and other our dominions and also to observe such ceremonies, rites and orders in divine service which hath been established and set forth by the laws and statutes of this realm and by our injunctions; We therefore do assign, depute and appoint and do give full power and authority and jurisdiction to you or three of you, whereof the Archbishop of Canterbury, the said Bishops of London, Ely, or Rochester to be one, to receive and take of all Archbishops, Bishops and other persons, officers and ministers ecclesiastical, of what

[1] 1 Eliz. 22 (above, p. 36).

estate, dignity, preeminence or degree soever they be, a certain corporal oath upon the holy Evangelists, specified, mentioned and set forth in the aforesaid statute or act of Parliament, entitled an Act restoring to the Crown the ancient jurisdiction over the state ecclesiastical and spiritual and abolishing of all foreign power repugnant to the same: the same oath to be taken and received before you or three of you [special quorum as before] of the said persons and every of them according to the tenor, form and effect of the said act: willing and requiring you or three of you [special quorum as before] to take and receive the same oaths of all persons before rehearsed and every of them, and to certify us without delay into our Court of Chancery of the receipt of the same under your seal or the seals of three of you [special quorum as before] . . .

At Westminster the xxth day of July.

Patent Roll, 4 *Eliz.* part 3.

(c) *The Commission of* 1572[1].

Commissio directa archiepiscopo Cantuariensi et aliis pro ecclesiasticis causis.

[I.] Elizabeth by the grace of God [&c.] To our trusty and well-beloved the most reverend father in God, Mathew Archbishop of Canterbury, Primate of all England and Metropolitan, the reverend fathers in God, Edwin Bishop of London, Robert Bishop of Winton, Richard Bishop of Ely, Nicholas Bishop of Worcester, Richard Bishop of St David's, Edmond Bishop of Rochester, Richard Bishop Suffragan of Dover, and to our right trusty and well-beloved Councillors, Sir Francis Knowles Knight, Treasurer of our household, Sir Ralph Sadler Knight, Chancellor of our Duchy of Lancaster, Sir Walter Mildmay Knight, Chancellor of our Exchequer, Sir Thomas Smyth Knight, [and to 58 others] greeting:

[XVI.] . . . And if any the archbishops, bishops or other persons, officers or ministers ecclesiastical afore rehearsed, or any of them, shall peremptorily and obstinately refuse to take

[1] This Commission is the same, but for a few verbal or unimportant differences, with that of 1562, except that it adds to § XVI the clause printed below, and after § XVIII (§ XVI of 1559) the sections numbered XIX, XX, XXI.

and receive the same oath, then to certify the same recusation or recusations of them or any of them unto us into our Court of Chancery without delay likewise under your seals or the seals of three of you.

[XIX.] And further our will and pleasure is that you the Bishop of Saint David's, the Bishop Suffragan of Dover [and 26 others named] do only intermeddle in and about the execution of this our commission for the reformation of incorrigible and disordered subjects residents only within the dioceses of Canterbury, Winchester, Worcester, Saint David's or Chichester, and that only where ordinary course of common justice or law is wanting or defective, without the prejudice or hindrance of the due execution of such things or orders as shall be done or appointed by other our commissioners resident at Lambeth or London by virtue of our said commission.

[XX.] And that from this day forward we do revocate and call in the like commission ecclesiastical last granted to the said archbishop with others named in the same, not meaning hereby to derogate or to hinder anything begun by virtue of any commission aforesaid: and that the same begun shall be determined by virtue of this said commission.

[XXI.] And if any necessary witness or witnesses that shall be thought meet and convenient to be brought to examination for the proof of any matter depending in controversy before you by virtue of this our commission shall be so sick and diseased that the same cannot come without danger of his life to be examined before you or three of you, or else if upon consideration of the poverty of any that shall sue or be sued before you, it shall be thought[1] that his or their witnesses cannot conveniently be brought to be examined before you without the great impoverishing of the said parties, because they dwell or be resident in places of long and great distance from the place where you shall sit in judgment, then we grant and give authority unto you or three of you [quorum as before] to appoint by your letters missives subscribed by three of you some public notary to examine the said person or persons in the place of his or their habitation upon such interrogatories as you shall join in writing to your said letters missives, and

[1] The original here inserts the word 'convenient.'

the said examinations being so taken and certified to you or three of you by the said notary under his notary seal to be of so good force as if the said examinations were taken before yourselves.

At Westminster the xi^th^ day of June.

Patent Roll, 14 *Eliz.* part 8.

(d) *The Commission of* 1576[1].

I. Elizabeth, by the grace of God [&c.], to the most reverend father in God, our right trusty and right well-beloved Edmond Archbishop of Canterbury, Primate of all England and Metropolitan, and to the reverend fathers in God, our right trusty and well-beloved, the Bishops of London, Winchester, Ely, Worcester, St David's, Norwich, Chichester and Rochester for the time being, Richard Bishop Suffragan of Dover, and to our right trusty and well-beloved councillors, Sir Francis Knolles Knight, Treasurer of our household, Sir Thomas Smyth Knight, Francis Walsingham Esquire, our Principal Secretaries, Sir Ralph Sadler Knight, Chancellor of our Duchy of Lancaster, Sir Walter Mildmay Knight, Chancellor of our Exchequer [and to 58 others], greeting.

[IV.] . . . And also to take order by your discretions that the penalties and forfeitures, limited by the said act for Uniformity of Common Prayer &c. against the offenders in that behalf, may be duly from time to time levied by the churchwardens of every parish where any such offence should be done, to the use of the poor of the same parish, of the goods, lands and tenements of every such offender by way of distress, according to the limitation and true meaning of the said statute.

[VI.] And also we do give and grant full power and authority unto you or three of you, as is aforesaid, from time to time and at all times during our pleasure to enquire of, search out and call before you all and every such person or persons ecclesiastical which have or shall have ecclesiastical livings, that shall advisedly maintain or affirm any doctrine directly contrary or repugnant to any of the Articles of Religion which only con-

[1] This Commission omits §§ VI, VII, XVII of 1559, and §§ XIX, XX, XXI of 1572. The clause of § IV printed below, and §§ VI, XI, XVIII are new, while § XVI differs considerably from the corresponding § XVI of 1562 and 1572.

cern the confession of the true Christian faith and the doctrine of the sacraments, comprised in a book imprinted, entitled 'Articles whereupon it was agreed by the Archbishops and Bishops of both provinces and the whole clergy in the Convocation holden at London in the year of our Lord God 1562 [&c.] put forth by the Queen's authority'; and that if any such person or persons being convented before you or any three of you, as is aforesaid, for any such matters, shall persist therein or not revoke his or their error, or after such revocation eftsoons affirm such untrue doctrine, then to deprive from all promotions ecclesiastical all and every such person and persons so maintaining or affirming or persisting or so eftsoons affirming as is aforesaid.

[XI.] And because there is great diversity in the persons that are to be called before you, some of them dwelling far off from you, some being fugitives, and some to be charged with grievous crimes and faults, the speedy redress whereof is most requisite and therefore more speedy, effectual and straiter process than by your letters missive is required in most of those cases; We, for the better execution and furtherance of our service here, do give full power and authority unto you or three of you [quorum as before] to command all and every our justices and other officers and subjects within this our realm, in all places as well exempt as not exempt, by your letters to apprehend or cause to be apprehended any person or persons which you shall think meet to be convented before you, to answer to any matter touching the premises or any part thereof; and to take such sufficient bonds to our use as you or three of you [quorum as before] shall by your letters prescribe for his or their personal appearance to be made before you or three of you, as aforesaid, and so to attend as appertaineth. And in case any such person or persons so apprehended be not able or will obstinately refuse to give sufficient bonds to our use for his or their personal appearance before you, as aforesaid, then we will that in our name you or three of you [quorum as before] give commandment to such justices [&c.], under whose charge he or they so to be convented afore you shall happen to remain, either for the bringing him or them before you, either else to commit him or them to

ward or other safe custody, so to remain until you or three of you [quorum as before] shall further order for his or their enlargement.

[XVI.] And where also we are informed there remaineth as yet still within this our realm divers perverse and obstinate persons which do refuse to acknowledge the jurisdiction, power, privilege, superiority and preeminence, spiritual and ecclesiastical, over all states and subjects within this our realm and other our dominions, which is given to us by virtue of the aforesaid two acts, the one entitled 'An Act[1] for restoring to the Crown the ancient jurisdiction [&c.],' and the other entitled 'An Act[2] for the assurance of the Queen's Majesty's royal power [&c.]'; We therefore do assign, depute and appoint, and by these presents do give full power and authority and jurisdiction to you or three of you, whereof you the Archbishop of Canterbury or the Bishops of London, Winchester, Ely, Worcester, Norwich, Chichester or Rochester for the time being to be one, to tender or minister the oath expressed and set forth in the said Act entitled 'An Act for restoring [&c.]' to all and every archbishops, bishops and other persons, officers and ministers ecclesiastical and also to every other person or persons appointed or compellable by either of the said acts to take the said oath, of what state, dignity, preeminence or degree soever he or they be, and to receive and take the said oath of the said persons and every of them, according to the tenor, form and effect of the said acts or either of them; willing and requiring you or three of you, as aforesaid, after the refusal or refusals of the same oath by any person or persons aforesaid made, to certify us accordingly under the seals of you or three of you, as aforesaid, the refusal to take the same oath, and of the names, places and degrees of the person or persons so refusing the same oath, before us in our court commonly called the King's Bench.

[XVIII.] And that, for the better credit and more manifest notice of your doings in the execution of this our commission, our pleasure and commandment is that unto your letters missive, processes, decrees, orders and judgments from or by you or any three of you to be awarded, sent forth, had, made, decreed,

[1] Stat. 1 Eliz. c. 1. [2] Stat. 5 Eliz. c. 1.

given or pronounced at Lambeth or London, you or three of you, as aforesaid, shall cause to be put and affixed a seal engraved with the rose and the crown over the rose, and the letter E before and the letter R after the same, with a ring or circumference about the same seal, containing as followeth; Sigil : Comissar : Reg : Ma : ad Caus. Ecclesiast.

. . . At Gorambury, the 23rd day of April, in the 18th year of our reign. *State Papers (domestic), Eliz.* CVIII. 7[1].

(e) *The Commission of* 1601[2].

[I.] Elizabeth [&c.] to the most reverend father our right trusty and well-beloved counsellor, John Lord Archbishop of Canterbury . . . Sir Thomas Egerton Knight, Lord Keeper of our great seal of England . . . Thomas Lord Buckhurst, Knight of the noble Order of the Garter and Lord high treasurer of England, and to the reverend fathers, our right trusty and well-beloved, the Bishops of London, Winchester, Ely, Rochester, Lincoln, Hereford, Worcester, Norwich, Chichester, Gloucester, Exeter, Salisbury and Peterborough, for the time being [and to 38 others] greeting.

[II.] Whereas in our Parliament summoned to be holden at Westminster the 23rd day of January in the first year of our reign . . . by one Act then made and established, entitled 'An Act restoring to the Crown the ancient jurisdiction [&c.],' amongst other things it was established and enacted [&c.]. . . .

[III.] We therefore for sundry good weighty and necessary causes and considerations us thereunto especially moving, of our mere motion and certain knowledge, by force and virtue of our supreme authority and prerogative royal and of the said Act, do assign, name and authorize by these our letters patents under our great seal of England you the said John Archbishop

[1] This copy, being signed by the Queen, appears to be the original. The Commission is incorrectly printed in Strype's *Life of Grindal; Appendix*, No. VI.

[2] This Commission, besides reciting the Statutes 35 Eliz. caps. 1 and 2, in addition to those previously recited, and empowering the Commissioners to execute them, sums up in § III the powers conferred upon the Commissioners in terms rather more sweeping than those previously used. Otherwise the commission differs in no important particular from that of 1576.

of Canterbury [&c.] or any three or more of you (whereof you the said John Archbishop of Canterbury [and 31 others named] to be one), being all our natural born subjects, from time to time and at all times during our pleasure, to exercise . . . under us all manner of jurisdictions, privileges, and preeminences in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within these our realms of England or Ireland or any other our dominions or countries . . .

At Westminster, the third day of February [a. r. 43].

Rymer, Fœdera, XVI. p. 400.

(f) *Ecclesiastical Commission for Wales*, 1579.

Commissio pro causis ecclesiasticis in Wallia.

Elizabeth by the grace of God, &c. to our trusty and right well-beloved Sir Henry Sydney, Knight, Lord President of our Council within our principality and marches of Wales, and to the reverend father in God, John Bishop of Worcester, Vice-president of the same council [and 18 others] greeting. Whereas we are given to understand that divers and sundry disorders and misbehaviours, as well in causes ecclesiastical as other, have been committed and done by divers evil-disposed persons, as well spiritual as temporal, and are very likely daily to increase, to the pernicious example of all our loving subjects inhabiting and dwelling within our principality and marches of Wales, except some speedy remedy be had for reformation thereof; know ye therefore that we, having special trust and confidence in your approved wisdoms and fidelities, have assigned, nominated and appointed you to be our commissioners, and by these presents do give full power and authority unto you . . . or four of you, whereof ye the said Lord President or Bishop of Worcester shall be one, to enquire, not only by the verdict of twelve good and lawful men but also by all other good and lawful means whatsoever, of all misdemeanours, misbehaviours, trespasses and offences whatsoever, and them to see reformed and amended from time to time according to such articles of instructions as ye shall receive from our Privy Council in writing signed with six of their hands, and the offender or offenders to punish according to the orders of our

laws set down in the same instructions, or otherwise according to former injunctions published by us heretofore concerning causes ecclesiastical.

Wherefore we will and command all and singular our justices of peace . . . and all other our officers, ministers and subjects to be aiding . . . you in the due execution of this our commission as they tender our pleasure and will answer to the contrary at their uttermost perils.

[Dated] Westminster, June 13.

Patent Roll, 21 *Eliz.* part 7.

29. *Proceedings in connexion with the appointment of a bishop.*

(1) *The congé d'élire.*

De licentia eligendi pro episcopo Eliensi.

Regina, &c., dilectis nobis decano et capitulo ecclesiae nostrae cathedralis Eliensis salutem. Cum ecclesia nostra cathedralis praedicta per legitimam inde remotionem Thomae ultimi episcopi ibidem jam sit pastoris solatio destituta, Nos alium vobis eligendi in episcopum et pastorem licentiam per praesentes duximus concedendam, mandantes quod talem vobis eligatis in episcopum et pastorem, qui sacrarum literarum cognitione ad id munus aptus, Deo devotus, nobisque et regno nostro utilis et fidelis ecclesiaeque praedictae necessarius existat.

In cujus rei, &c.

Teste Regina apud Westmonasterium xviii die Julii [1559].

Rymer's Fœdera, XV. p. 537.

(2) *Recommendation of a bishop.*

By the Queen.

Elizabeth.

Trusty and well-beloved, we greet you well. Whereas the bishopric of Hereford is now void by the death of the late incumbent of the same, we let you wit that, calling to our remembrance the virtue, learning and other good qualities of our trusty and well-beloved Herbert Westphaling, D.D., we have thought good, by these our letters, to name and recommend

him unto you to be elected and chosen to the said bishopric of Hereford. Wherefore we require and pray you forthwith, upon the receipt hereof, to proceed to your election, according to the laws of this our realm and our *congé d'élire* sent unto you herewith, and the same election so made to certify unto us under your common seal. Given under our signet at our manor of Richmond, the 23rd day of November, 1585, in the twenty-eighth year of our reign. *Strype's Whitgift*, I. p. 466.

(3) *Oath of allegiance and homage of a bishop elect.*

Apud Westmr. [blank] die Februarii, 1559.

I Matthew Parker, doctor of divinity, now elect archbishop of Canterbury, do utterly testify and declare in my conscience [&c. as in the Act of Supremacy, § ix] ... the imperial crown of this realm. And further I acknowledge and confess to have and to hold the said archbishopric of Canterbury and the possessions of the same entirely, as well the spiritualities as temporalities thereof, only of your Majesty and crown royal of this your realm; and for the said possessions I do mine homage presently unto your Highness, and to the same, your heirs and lawful successors, shall be faithful and true: so help me God and by the contents of this book.

State Papers (domestic), Eliz. 11. 23.

(4) *Command to consecrate a bishop.*

Significavit pro Eliensi episcopo.

Regina, &c., reverendissimo in Christo Patri, Domino Mathaeo Archiepiscopo Cantuariensi, totius Angliae Primati et Metropolitano, salutem. Cum, vacante nuper sede episcopali Eliensi per legitimam deprivationem ultimi episcopi ejusdem, ad humilem petitionem Decani et Capituli ecclesiae nostrae cathedralis Eliensis praedictae, eisdem per literas nostras patentes licentiam concesserimus alium sibi eligendi in episcopum et pastorem sedis praedictae; iidemque Decanus et Capitulum, vigore et obtentu licentiae nostrae praedictae, dilectum nobis in Christo magistrum Ricardum Coxe, sacra

theologiae professorem, sibi et ecclesiae praedictae elegerunt in episcopum et pastorem, prout per literas suas patentes, sigillo eorum communi sigillatas, nobis inde directas plenius liquet et apparet: Nos electionem illam acceptantes eidem electioni regium nostrum assensum adhibuimus pariter et favorem, et hoc vobis tenore praesentium significamus; rogantes ac in fide et dilectione quibus nobis tenemini firmiter praecipiendo mandantes, quatenus eundem magistrum Ricardum Coxe, in episcopum et pastorem ecclesiae cathedralis Eliensis praedictae sic ut praefertur electum, electionemque praedictam confirmare, et eundem magistrum Ricardum Coxe episcopum et pastorem ecclesiae praedictae consecrare, caeteraque omnia et singula peragere, quae vestro in hac parte incumbunt officio pastorali, juxta formam et effectum statutorum in ea parte editorum et provisorum, velitis cum effectu.

In cujus rei, &c.

Teste Regina apud Westmonasterium xviii die Decembris [1559]. *Rymer's Fœdera*, XV. p. 552.

(5) *Restitution of temporalities.*

[Episcopatu] Eliensi per deprivationem vacante.

Regina escaetori suo in comitatu Cantabrigiae salutem. Vacante nuper episcopatu Eliensi per deprivationem Thomae Thurlbie ultimi episcopi ibidem, Decanus et Capitulum ecclesiae cathedralis Eliensis praedictae, licentia nostra petita pariter et obtenta, dilectum capellanum nostrum Ricardum Coxe, sacrae theologiae professorem, in eorum episcopum et pastorem elegerunt. Cui quidem electioni et personae sic electae regium assensum nostrum adhibuimus et favorem, ipsiusque fidelitatem nobis debitam pro dicto episcopatu recepimus, ac temporalia ejusdem episcopatus (exceptis omnibus maneriis . . . modo in manus nostras vigore cujusdam actus[1] anno regni nostri primo inde nuper editi et provisi electis et captis . . .) ei restituimus per praesentes.

Et ideo tibi praecipimus quod praefato electo temporalia praedicta cum pertinentiis (exceptis praeexceptis) in balliva tua, una cum exitibus et proficuis inde provenientibus sive

[1] 1 Eliz. 19. § 1.

crescentibus, a festo sancti Michaelis Archangeli ultimo praeterito sine dilatione liberes; salvo jure cujuslibet. Teste Regina apud Westmonasterium vicesimo tertio die Martii [1560].

... Et mandatum est militibus, liberis hominibus et omnibus aliis tenentibus de episcopatu Eliensi praedicto, quod eidem electo, tanquam episcopo et domino suo, in omnibus quae ad episcopatum praedictum pertinent, intendentes sint et respondentes prout decet.

In cujus rei, &c.

Teste ut supra. *Rymer's Fœdera*, XV. p. 575

II. Extracts from Ecclesiastical Writers.

The Anglican and Presbyterian positions.

(1) *Extracts from Hooker's 'Laws of Ecclesiastical Polity.'*

[1.] The plain intent of the Book of Ecclesiastical Discipline[1] is to shew that men may not devise laws of church government, but are bound for ever to use and to execute only those which God himself hath already devised and delivered in the scripture. The self-same drift the Admonitioners also had, in urging that nothing ought to be done in the Church according unto any law of man's devising, but all according to that which God in his word hath commanded . . . Demand of them, wherefore they conform not themselves unto the order of our Church, and in every particular their answer for the most part is, 'We find no such thing commanded in the word.' [Bk. II. ch. vii.]

[2.] Touching points of doctrine, as for example the Unity of God, . . . they have been since the first hour that there was a Church in the world, and till the last they must be believed. But as for matters of regiment, they are for the most part of another nature. To make new articles of faith and doctrine no man thinketh it lawful; new laws of government what commonwealth or church is there which maketh not either at one time or another? . . . There is no reason in the world wherefore we should esteem it as necessary always to do, as always to believe the same things; seeing every man knoweth that the matter of

[1] 'A full and plain Declaration of Ecclesiastical Discipline, &c.,' by Travers, with a preface by Cartwright, was printed (in Latin) in 1574 and republished (in English) in 1584 (*Strype, Annals*, vi. 413).

faith is constant, the matter contrariwise of action daily changeable, especially the matter of action belonging unto church polity. [Bk. III. ch. x.]

[3.] Let not any man imagine, that the bare and naked difference of a few ceremonies could either have kindled so much fire, or have caused it to flame so long; but that the parties which herein laboured mightily for change and (as they say) for reformation, had somewhat more than this mark only whereat to aim. Having therefore drawn out a complete form, as they supposed, of public service to be done to God, and set down their plot for the office of the ministry in that behalf, they very well knew how little their labours so far forth bestowed would avail them in the end, without a claim of jurisdiction to uphold the fabric which they had erected; and this neither likely to be obtained but by the strong hand of the people, nor the people unlikely to favour it; the more if overture were made of their own interest, right and title thereunto. [Bk. VI. ch. ii.]

[4.] This we boldly set down as a most infallible truth, that the Church of Christ is at this day lawfully, and so hath been since the first beginning, governed by bishops, having permanent superiority and ruling power over other ministers of the word and sacraments . . . Let us not fear to be herein bold and peremptory, that, if anything in the Church's government, surely the first institution of bishops was from heaven, was even of God: the Holy Ghost was the author of it. [Bk. VII. ch. iii, v.]

[5.] The drift of all that hath been alleged to prove perpetual separation and independency between the Church and the Commonwealth is, that this being held necessary, it might consequently be thought, that in a Christian kingdom, he whose power is greatest over the Commonwealth may not lawfully have supremacy of power also over the Church . . . Whereupon it is grown a question whether power ecclesiastical over the Church, power of dominion in such degree as the laws of this land do grant unto the sovereign governor thereof, may by the said supreme Head and Governor lawfully be enjoyed and held? . . . Unto which supreme power in kings two kinds of adversaries there are that have opposed themselves; one sort defending 'that supreme power in causes ecclesiastical

throughout the world appertaineth of divine right to the bishop of Rome,' another sort 'that the said power belongeth in every national Church unto the clergy thereof assembled.' We defend as well against the one as the other, 'that kings within their own precincts may have it.' [Bk. VIII. ch. ii.]

(2) *Extracts from Bancroft's 'Dangerous Positions.'*

[Cap. I.] For the first ten or eleven years of her Majesty's reign, through the . . . outcries and exclamations of those that came home from Geneva, against the garments prescribed to ministers and other such like matters, no man of any experience is ignorant what great contention and strife was raised . . .

About the twelfth year of her Highness' government, these malcontents . . . began to stir up new quarrels, concerning the Geneva discipline . . . Hereupon (the 14 of her Majesty) two Admonitions were framed, and exhibited to the High Court of Parliament. The first contained their pretended griefs, with a declaration, forsooth, of the only way to reform them, viz. by admitting of that platform which was there described. This Admonition finding small entertainment, (the authors or chief preferrers thereof being imprisoned), out cometh the Second Admonition, towards the end of the same parliament . . . In this Second Admonition, the first is wholly justified, . . . and in plain terms it is there affirmed that, if they of that assembly would not then follow the advice of the First Admonition, they would surely themselves be their own carvers . . . Whereupon, presently after the said parliament (viz. the 20th of November, 1572), there was a presbytery erected at Wandsworth in Surrey.

[Cap. III.] . . . Hitherto it should seem that in all their former proceedings they had relied chiefly upon the First Admonition and Cartwright's book . . . But now, at the length (about the year 1583), the form of discipline, which is lately come to light, was compiled: and thereupon an assembly or council being held (as I think at London, or at Cambridge), certain decrees were made concerning the establishing and the practice thereof . . .

[Cap. V.] . . . About which time also [viz. 1587] . . . the further practice of the discipline . . . began to spread itself more

freely; . . . but especially . . . it was most friendly entertained among the ministers of Northamptonshire, as it appeareth in record by some of their own depositions, 16th of May, 1590, in these words following. About two years and a half since, the whole shire was divided into three Classes. I. The Classis of Northamptonshire . . . II. The Classis of Daventry side . . . III. The Classis of Kettering side . . . This device (saith Master Johnson) is commonly received in most parts of England, . . . but especially in Warwickshire, Suffolk, Norfolk, Essex, &c.

[Cap. VI.] The next year after, viz. 1588, the said Warwickshire classes, &c. assembling themselves together in council (as it seemeth, at Coventry), . . . there was . . . a great approbation obtained of the aforesaid Book of Discipline . . . This book, having thus at the last received this great allowance more authentically, was carried far and near, for a general ratification of all the brethren . . .

[Cap. XIII.] . . .[1] Mutual conference is to be practised in the Church by common assemblies . . . Such as are to meet in the assemblies, let them be chosen by the suffrages of those churches or assemblies that have interest or to do in it, and out of these let such only be chosen as have exercised the public office in that church either of a minister or of an elder . . .

It shall be lawful for other elders and ministers, yea, and for deacons and students in divinity, by the appointment of the assembly . . . to be both present, and to be asked their judgments . . . Yet let none be counted to have a voice, but those only that were chosen by the Church . . .

It is expedient that in every ecclesiastical assembly there be a president, which may govern the assembly, and that he be from time to time changed . . . The assemblies according to their several kinds, if they be greater are of more, if they be less, they are of less authority. Therefore it is lawful to appeal from a less assembly to a greater . . .

Assemblies are either Classes or Synods.

Classes are conferences of the fewest ministers of churches, standing near together, as for example of twelve. The chosen men of all the several churches of that assembly are to meet in

[1] What follows is translated by Bancroft from the *Book of Discipline*.

conference: that is to say, for every church a minister and an elder: and they shall meet every fortnight. They shall chiefly endeavour the oversight and censure of that Classis . . .

A Synod is an assembly of chosen men from more churches than those that be in one Classis or conference.

In these, the articles of the holy discipline and synodical must always be read; also in them . . . censures or inquisition made upon all that be present . . .

Of Synods there be two sorts: the first is particular, and this containeth under it, both Provincial and National Synods.

A Provincial Synod is an assembly of those which be delegated from all the Classes or Conferences of that province. Let every province contain in it 24 Classes . . . Let every Classis send unto the Provincial Synod two ministers and as many elders. It shall be called every half year, or more often, until the discipline be confirmed . . .

Let the acts of all the Provincial Synods be sent unto the National . . .

The National is a Synod consisting of the delegates from all the Synods Provincial that are within the dominion of one commonwealth . . .

For the National Synod, three ministers and three elders must be chosen out of every Synod Provincial.

In it the common affairs of all the churches of the whole nation and kingdom are to be handled: as of doctrine, discipline and ceremonies, causes not decided in inferior assemblies, appellations and such like . . .

. . . Now follows the universal or Oecumenical Synod of the whole world. And this is the Synod that consisteth and is gathered together of the chosen men out of every particular national Synod.

REIGN OF JAMES THE FIRST.

I.—STATUTES.

First Parliament: First Session.

March 19—July 7, 1604.

1 Jac. I. Cap. I.

A most joyful and just recognition of the immediate, lawful and undoubted Succession, Descent and Right of the Crown.

Great and manifold were the benefits, most dread and most gracious Sovereign, wherewith Almighty God blessed this kingdom and nation by the happy union and conjunction of the two noble houses of York and Lancaster, thereby preserving this noble realm, formerly torn and almost wasted with long and miserable dissension and bloody civil war; but more inestimable and unspeakable blessings are thereby poured upon us, because there is derived and grown from and out of that union of those two princely families, a more famous and greater union, or rather a reuniting, of two mighty, famous and ancient kingdoms (yet anciently but one) of England and Scotland, under one imperial crown, in your most royal person . . . We therefore, your most humble and loyal subjects, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, do from the bottom of our hearts yield to the Divine Majesty all humble thanks and praises, not only for the said unspeakable and inestimable benefits and blessings above mentioned, but also that he hath further enriched your Highness with a most royal progeny, of most rare and excellent gifts and forwardness, and in his goodness is likely to increase the happy number of them: and in most

humble and lowly manner do beseech your most excellent Majesty, that (as a memorial to all posterities, amongst the records of your High Court of Parliament for ever to endure, of our loyalty, obedience and hearty and humble affection), it may be published and declared in this High Court of Parliament, and enacted by authority of the same, That we (being bounden thereunto both by the laws of God and man) do recognize and acknowledge (and thereby express our unspeakable joys) that immediately upon the dissolution and decease of Elizabeth, late Queen of England, the imperial crown of the realm of England, and of all the kingdoms, dominions and rights belonging to the same, did, by inherent birthright and lawful and undoubted succession, descend and come to your most excellent Majesty, as being lineally, justly and lawfully next and sole heir of the blood royal of this realm as is aforesaid; and that by the goodness of God Almighty and lawful right of descent, under one imperial crown, your Majesty is of the realms and kingdoms of England, Scotland, France and Ireland, the most potent and mighty King . . .

1 Jac. I. Cap. II.

An Act authorizing certain Commissioners of the realm of England to treat with Commissioners of Scotland, for the weal of both kingdoms.

Whereas his most excellent Majesty hath been pleased, out of his great wisdom and judgment, not only to represent unto us by his own prudent and princely speech on the first day of this Parliament, how much he desired, in regard of his inward and gracious affection to both the famous and ancient realms of England and Scotland, now united in allegiance and loyal subjection in his royal person to his Majesty and his posterities for ever, that by a speedy, mature and sound deliberation such a further union might follow, as should make perfect that mutual love and uniformity of manners and customs which Almighty God in his providence for the strength and safety of both realms hath already so far begun in apparent sight of all the world, but also hath vouchsafed to express many ways how far it is and ever shall be from his royal and sincere

care and affection to the subjects of England to alter and innovate the fundamental and ancient laws, privileges and good customs of this kingdom, whereby not only his regal authority but the people's security . . . are preserved . . .: forasmuch as his Majesty's humble, faithful and loving subjects have not only conceived the weight of his Majesty's reasons, but apprehend to their unspeakable joy and comfort his plain . . . intention to seek no other changes, but of such particular, temporary or indifferent manner of statutes and customs as may both prevent and extinguish all future questions or unhappy accidents, by which the . . . friendship and quietness between the subjects of both the realms aforesaid may be completed and confirmed, and also accomplish that real and effectual union already inherent in his Majesty's royal blood and person . . .: be it therefore enacted by the King's most excellent Majesty, by and with the assent and consent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That Thomas Lord Ellesmere, Lord Chancellor of England [and 43 others named], commissioners selected and nominated by authority of this present Parliament, or any eight or more of the said lords of the said higher house and any twenty or more of the said knights, citizens and burgesses of the said house of the commons, shall . . . have full power . . . before the next session of this Parliament, to . . . treat and consult with certain selected commissioners to be nominated and authorized by authority of Parliament of the realm of Scotland . . . concerning such an union of the said realms of England and Scotland . . .; which commissioners of both the said realms shall . . . reduce their doings and proceedings therein into writings or instruments, . . . that thereupon such further proceedings may be had as by both the said parliaments shall be thought fit and necessary for the weal and common good of both the said realms.

1 Jac. I. Cap. IV.

An Act for the due execution of the Statutes against Jesuits, Seminary Priests, Recusants, &c.

For the better and more due execution of the Statutes hereto-

fore made, as well against Jesuits, Seminary Priests, and other such-like priests, as also against all manner of recusants; be it enacted, That all the statutes heretofore made in the reign of the late Queen of famous memory, Elizabeth, as well against Jesuits, Seminary Priests, and other priests, deacons, religious and ecclesiastical persons whatsoever, made . . . or to be made . . . by any authority and jurisdiction derived, challenged or pretended from the See of Rome, as those which do in any wise concern the withdrawing of the King's subjects from their due obedience and the religion now professed, and the taking of the oath of obedience unto the King's Majesty, his heirs and successors, together with all those made in the said late Queen's time against any manner of recusants, shall be put in due and exact execution.

1 Jac. I. Cap. VII.

An Act for the continuance and explanation of the Statute made in the thirty-ninth year of the reign of our late Queen Elizabeth, entitled an Act for punishment of rogues, vagabonds and sturdy beggars.

I. Whereas by a Statute made in the 39th year of the reign of the late Queen Elizabeth, intituled [&c.], it was enacted that all persons calling themselves scholars going about begging [&c., &c.] shall be taken as rogues, vagabonds and sturdy beggars, and shall suffer such punishment as in the said Act is appointed: since the making of which act divers doubts and questions have been moved . . . upon the letter of the said Act; for a plain declaration whereof be it enacted, That from henceforth no authority to be given or made by any baron of this realm or any other honourable personage of greater degree . . . shall be available to free and discharge the said persons from the pains and punishments in the said Statute mentioned . . .

III. And whereas by the said Statute . . . it was further enacted[2] [&c., &c.], which branch of the said Statute is taken to be somewhat defective, for that the said rogues having no mark upon them . . . may return or retire themselves

[1] 39 Eliz. 4. § 2.

[2] 39 Eliz. 4. § 4.

into some other parts of this realm where they are not known, and so escape the due punishments . . . : for remedy whereof be it enacted, That such rogues as shall . . . be adjudged as aforesaid incorrigible or dangerous shall also by the judgments of the same justices . . . be branded in the left shoulder with a great Roman R upon the iron, . . . that the letter R be seen and remain for a perpetual mark upon such rogue during his or her life; and . . . if any rogue so punished shall offend again, . . . the party so offending . . . shall suffer as in cases of felony, without benefit of clergy . . .

IV. And be it further enacted, That . . . every person shall apprehend such rogues, vagabonds and sturdy beggars as he shall see or know to resort to their houses to beg, . . . and them shall carry to the next constable or tithingman, upon pain to forfeit for every default 10*s*. . . .

VII. Provided that this present Act shall continue but until the end of the next Parliament[1].

1 Jac. I. Cap. VIII.

An Act to take away the Benefit of Clergy from some kind of Manslaughter.

I. To the end that stabbing and killing men on the sudden . . . may from henceforth be restrained through fear of due punishment to be inflicted on such . . . malefactors who heretofore have been thereunto emboldened by presuming on the benefit of clergy; be it therefore enacted . . . That every person which . . . shall stab or thrust any person that hath not then any weapon drawn or that hath not then first stricken the party, . . . so as the person . . . shall thereof die within the space of six months, . . . shall be excluded from the benefit of his clergy and suffer death as in case of wilful murder. . . .

1 Jac. I. Cap. XIII.

An Act for new executions to be sued against any which shall hereafter be delivered out of execution by privilege of Parliament, and for discharge of them out of whose custody such persons shall be delivered.

I. Forasmuch as heretofore doubt hath been made if any

[1] Confirmed by 31 Jac. I. 28. § 1.

person being arrested in execution and by privilege of either of the houses of parliament set at liberty, whether the party at whose suit such execution was pursued be for ever after barred and disabled to sue forth a new writ of execution in that case: for the avoiding of all further doubt and trouble which in like cases may hereafter ensue, be it enacted . . . That from henceforth the party at or by whose suit such writ of execution was pursued, his executors or administrators, after such time as the privilege of that session of parliament in which such privilege shall be so granted shall cease, may sue forth and execute a new writ or writs of execution in such manner as by the law of this realm he might have done if no such former execution had been taken forth or served; and that from henceforth no sheriff, bailiff or other officer, from whose arrest or custody any such person so arrested in execution shall be delivered by any such privilege, shall be charged or chargeable . . . for delivering out of execution any such privileged person so as is aforesaid by such privilege of parliament set at liberty; any law custom or privilege heretofore to the contrary notwithstanding. Provided always that this Act or anything therein contained shall not extend to the diminishing of any punishment to be hereafter by censure in parliament inflicted upon any person which hereafter shall make or procure to be made any such arrest as is aforesaid.

1 JAC. I. CAP. XXV.

An Act for continuing and reviving of divers Statutes, and for repealing of some others.

VIII. And be it enacted that [Stat. 1 Mary (2). 2] shall stand repealed; and that [Stat. 2 & 3 Edw. VI. 21], entitled an Act to take away all positive laws made against the marriage of priests, and [Stat. 5 & 6 Edw. VI. 12], entitled an Act made for declaration of a statute made for the marriage of priests and for the legitimation of their children, shall stand revived and be in force for ever; . . . and the children of ecclesiastical persons in the said Act mentioned shall be legitimate and inheritable to all intents and purposes in such sort as children of lay persons do enjoy and may inherit; any canon or constitution to the contrary notwithstanding.

First Parliament: Second Session.

Jan. 21—May 27, 1606.

3 & 4 Jac. I. Cap. IV.

An Act for the better discovering and repressing of Popish Recusants.

I. Forasmuch as it is found by daily experience that . . . divers persons popishly affected do nevertheless, the better to cover and hide their false hearts, and with the more safety to attend the opportunity to execute their mischievous designs, repair sometime to church to escape the penalties of the laws in that behalf provided: for the better discovery therefore of such persons and their evil affections to the King's Majesty and the state of this his realm, to the end that being known their evil purposes may be the better prevented; be it enacted . . . That every popish recusant convicted, . . . which heretofore hath conformed him or her self or which shall hereafter conform him or her self and repair to the church . . . according to the laws and statutes in that behalf made, shall, within the first year next after the end of this session of parliament . . . and . . . once in every year following at the least, receive the blessed sacrament of the Lord's Supper in the church of that parish where he or she shall most usually abide; . . . and if any recusant so conformed shall not receive the said sacrament of the Lord's Supper accordingly, he or she shall forfeit for the first year £20, and for the second year . . . £40, and for every year after . . . £60, until he or she shall have received the said sacrament as is aforesaid . . .; the one moiety to be to our Sovereign Lord the King's Majesty, his heirs and successors, and the other moiety to him that will sue for the same . . .

II. And be it further enacted, That the churchwardens and constables of every town, parish or chapel . . . shall once in every year present the monthly absence from church of all popish recusants within such towns and parishes, and . . . the names of every of the children of the said recusants, being of the age of nine years and upwards, abiding with their said

parents, . . . as also the names of the servants of such recusants, at the general or quarter sessions of that shire [&c.].

III. And be it further enacted, That all such presentments shall be . . . recorded in the said sessions by the clerk of the peace or town-clerk . . .

IV. And be it further enacted, That the justices of assize and gaol delivery at their assizes and the said justices of peace at any their said sessions shall have power to enquire, hear and determine of all recusants and offences, as well for not receiving the sacrament . . . as for not repairing to church . . .

V. And be it further enacted, That every offender in not repairing to divine service . . . shall . . . pay into the receipt of the exchequer after the rate of £20 for every month . . . , except in such cases where the King shall . . . take two parts of the lands [&c.] of such offender, till the said party . . . shall conform himself and come to church . . . ; and if default shall be made in any part of any payment aforesaid, . . . that then and so often the King's Majesty . . . may . . . seize and enjoy all the goods and two parts . . . of the lands [&c.] of such offender . . .

VI. And whereas by an Act[1] made . . . in the 23rd year of the reign of the late Queen Elizabeth, intituled, an Act to retain the subjects of the said late Queen in their due obedience, it was amongst other things enacted, That every person above the age of sixteen years which should not repair to some church, chapel or usual place of common prayer, . . . contrary to the tenour of a statute[2] made . . . for uniformity of common prayer, and being thereof lawfully convicted, should forfeit unto the said Queen for every month . . . £20 . . . ; and whereas afterwards by another Act[3] of parliament of the said Queen it was further enacted . . . That if default should be made in . . . payment of the said £20 . . . that then and so often the said Queen should and might . . . take . . . all the goods and two parts as well of all the lands, tenements and hereditaments, leases and farms of such offender . . . : now forasmuch as the said penalty of £20 monthly is a greater burden unto men of small living than unto such as are of better ability . . . who, rather than they will have two parts of their lands to be seized, will be

[1] 23 Eliz. 1. § 4. [2] 1 Eliz. 2. [3] 29 Eliz. 6. § 4.

ready always to pay the said £20 ... and yet retain the residue of their livings and inheritance in their own hands; ... therefore to the intent that hereafter the penalty for not repairing to divine service might be inflicted in better proportion upon men of great ability, be it enacted, That the King's Majesty, his heirs and successors, shall ... have full power to refuse the penalty of £20 a month ... and thereupon to seize and take to his own use and the uses ... hereafter limited, two parts in three ... of all the lands [&c.], and the same to retain ... till every such offender shall conform him or her self ...

VII. [The mansion-house of a recusant not to be included in the two parts taken by the King.]

VIII. And for the better trial how his Majesty's subjects stand affected in point of their loyalty and due obedience; be it also enacted by the authority aforesaid, That from and after the end of this present session of parliament, it shall be lawful for any bishop in his diocese, or any two justices of the peace, whereof one of them to be of the quorum, ... out of the sessions, to require any person of the age of 18 years or above, which shall be convict or indicted for any recusancy (other than noblemen or noblewomen) for not repairing to divine service according to the laws of this realm, or which shall not have received the said sacrament twice within the year then next past ...; or any person passing through the country, shire or liberty, and unknown (except as is last before excepted) that being examined by them upon oath shall confess ... to be a recusant, or shall confess ... that he had not received the sacrament twice within the year then last past, to take the oath hereafter following upon the Holy Evangelists ...

IX. And be it further enacted, That if any such person, other than noblemen and noblewomen, shall refuse to answer upon oath to such bishop or justices of peace examining him as aforesaid, or to take the said oath so duly tendered ... by such bishop or two such justices of peace out of sessions, that then the said bishop or justices of peace shall commit the same person to the common gaol ... until the next assizes or general or quarter sessions, ... where the said oath shall be again in the said open assizes or sessions required of such person by the said justices of assize or justices of peace; ... and if the said person

. . . shall refuse to take the said oath . . . every person so refusing shall incur the penalty of praemunire . . .

The tenour of which said oath hereafter followeth: I A. B. do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the world, that our sovereign lord King James is lawful and rightful King of this realm and of all other his Majesty's dominions and countries; and that the Pope, neither of himself nor by any authority of the church or See of Rome or by any other means with any other hath any power or authority to depose the King, or to dispose any of his Majesty's kingdoms or dominions, or to authorize any foreign prince to invade or annoy him or his countries, or to discharge any of his subjects of their allegiance and obedience to his Majesty, or to give licence or leave to any of them to bear arms, raise tumult or to offer any violence or hurt to his Majesty's royal person, state or government or to any of his Majesty's subjects within his Majesty's dominions. Also I do swear from my heart that, notwithstanding any declaration or sentence of excommunication or deprivation made or granted or to be made or granted by the Pope or his successors or by any authority derived or pretended to be derived from him or his see against the said King, his heirs or successors, or any absolution of the said subjects from their obedience, I will bear faith and true allegiance to his Majesty, his heirs and successors, and him or them will defend to the uttermost of my power against all conspiracies and attempts whatsoever, which shall be made against his or their persons, their crown and dignity, by reason or colour of any such sentence or declaration or otherwise, and will do my best endeavour to disclose and make known unto his Majesty, his heirs and successors, all treasons and traitorous conspiracies, which I shall know or hear of to be against him or any of them: and I do further swear that I do from my heart abhor, detest and abjure, as impious and heretical, this damnable doctrine and position, that princes which be excommunicated or deprived by the Pope may be deposed or murdered by their subjects or any other whatsoever: and I do believe and in my conscience am resolved that neither the Pope nor any person whatsoever hath power to absolve me of this oath or any part thereof, which I acknowledge by good and full

authority to be lawfully ministered unto me, and do renounce all pardons and dispensations to the contrary: and all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken and according to the plain and common sense and understanding of the same words, without any equivocation or mental evasion or secret reservation whatsoever: and I do make this recognition and acknowledgment heartily, willingly and truly, upon the true faith of a Christian: so help me God. Unto which oath so taken, the said person shall subscribe his or her name or mark.

XII. And forasmuch as it is found . . . that such as go voluntarily out of this realm of England to serve foreign princes . . . are for the most part perverted in their religion and loyalty by Jesuits and fugitives, . . . be it therefore enacted, That every subject of this realm that . . . shall go out of this realm to serve any foreign prince, . . . not having, before his going as aforesaid, taken the oath aforesaid, . . . shall be a felon . . .

XIV. And further be it enacted, That if any person . . . shall . . . put in practice to . . . withdraw any of the subjects of the King's Majesty . . . from their natural obedience to his Majesty . . . or to reconcile them to the Pope or See of Rome . . . that then every such person, their procurers [&c.] . . . shall be to all intents adjudged traitors and being thereof lawfully convicted shall have judgment, suffer and forfeit as in cases of high treason; and if any such person as aforesaid . . . shall be . . . absolved or withdrawn as aforesaid or willingly reconciled . . . that then every such person, their procurers [&c.] . . . shall be to all intents adjudged traitors and . . . suffer and forfeit as in cases of high treason.

XVII. [Peers to be tried by Peers.]

XVIII. And be it further enacted, That if any subject of this realm . . . shall not repair every sunday to some church, chapel or some other usual place appointed for common prayer, and there hear divine service according to the statute[1] made in that behalf, in the first year of the reign of the late Queen Elizabeth, that then it shall be lawful for any one justice of peace of that limit wherein the said party shall dwell, upon proof unto him made of such default by confession of the party or oath of

[1] 1 Eliz. 2: 23 Eliz. 1. § 4.

witness, to call the said party before him; and if he shall not make a sufficient excuse and due proof thereof, to the satisfaction of the said justice of peace, that it shall be lawful for the said justice of peace to give warrant to the churchwarden of the said parish wherein the said party shall dwell . . . to levy 12*d.* for every such default, by distress and sale of the goods of every such offender . . .; and that in default of such distress it shall be lawful for the said justice of peace to commit every such offender to some prison within the said shire . . . wherein such offender shall be inhabiting, until payment be made of the said sum so to be forfeited; which forfeiture shall be employed for the use of the poor of that parish wherein the offender shall be resident . . .

XIX. And because in one Act[1] of parliament . . . in the 35th year of the late Queen Elizabeth, intituled [&c.], there are two branches [clauses 5 and 6 are here recited], which said two branches are found defective; be it therefore enacted, That the said two branches . . . shall be . . . repealed and made void, and in lieu thereof be it enacted, That every person which . . . shall willingly maintain . . . in his house any servant, sojourner or stranger who shall not go to some church or chapel, or usual place of common prayer to hear divine service . . . by the space of one month together, not having a reasonable excuse, . . . shall forfeit £10 for every month that he shall so . . . harbour any such servant [&c.] . . .; and that every person which shall . . . keep in his service, fee or livery any person which shall not go to some church [&c. as before] shall forfeit for every month . . . £10 . . .

XXII. And be it further enacted, That every offence to be committed against this present Act may be . . . determined before the justices of the King's Bench, justices of assize and gaol-delivery . . .; and all offences other than treason shall be . . . determined before the justices of peace in their general or quarter sessions . . .

XXV. Provided always, That this Act nor anything therein contained shall extend to take away or abridge the authority or jurisdiction of the ecclesiastical censures for any matter, but that the commissioners of his Majesty . . . in causes eccle-

[1] 35 Eliz. 1. §§ 5, 6.

siastical . . . and the archbishops, bishops and other ecclesiastical judges may proceed as before the making of this Act they lawfully did or might have done . . .

XXVII. Provided also . . . That in all cases where any bishop or justices of the peace may . . . require of any subject the oath above-mentioned, that the lords of the Privy Council . . . or any six of them, whereof the Lord Chancellor, the Lord Treasurer or the Principal Secretary for the time to be one, shall have full power . . . to require the said oaths beforementioned of any nobleman or noblewoman, then being above the age of eighteen years; and if any such . . . shall refuse to take such oaths, that in every such case such nobleman or noblewoman shall incur the pain and danger of a praemunire . . .

3 & 4 Jac. I. Cap. V.

An Act to prevent and avoid dangers which may grow by Popish recusants.

I. Whereas divers Jesuits, Seminaries and Popish priests daily do withdraw many of his Majesty's subjects from the true service of Almighty God and the religion established within this realm to the Romish religion and from their loyal obedience to his Majesty, and have of late secretly persuaded divers recusants and Papists . . . to commit most damnable treasons, tending to the overthrow of God's true religion, the destruction of his Majesty and his royal issue, and the overthrow of the whole state and commonwealth, if God of his goodness and mercy had not within few hours before the intended time of the execution thereof revealed and disclosed the same; wherefore to discover and prevent such secret damnable conspiracies and treasons as hereafter may be put in ure by such evil-disposed persons, if remedy be not therefore provided; be it enacted . . . That such person as shall first discover to any justice of peace any recusant or other person which shall entertain or relieve any Jesuit, Seminary or Popish priest, or shall discover any mass to have been said and the persons that were present at such mass and the priest that said the same, within three days next after the offence committed, and that by reason of such discovery any of the said offenders be taken and con-

victed or attainted, that then the person which hath made such discovery shall not only be freed from the penalty of any law for such offence, if he be an offender therein, but also have the third part of the forfeiture of all such sums of money . . . which shall be forfeited by such offence, so as the same total forfeiture exceed not the sum of £150, and if it exceed the sum of £150 the said person . . . shall have the sum of £50 . . .

II. And whereas the repair of such evil-affected persons to the court or to the city of London may be very dangerous to his Majesty's person, and may give them more liberty to meet, consult and plot their treasons and practices against the state than if they should be restrained and confined unto their private houses in the country; for remedy hereof be it enacted, That no Popish recusant convicted shall come into the court or house where the King's Majesty or his heir apparent to the crown of England shall be, unless he be commanded so to do by the King's Majesty, his heirs or successors, or by warrant in writing from the lords and others of the most honourable Privy Council, . . . upon pain to forfeit for every time so offending £100, the one moiety to the King's Majesty, his heirs and successors, the other moiety to him that will discover and sue for the same . . .: and that all Popish recusants indicted or convicted and all other persons which have not repaired to some usual church or chapel and there heard divine service . . . by the space of three months last past, . . . dwelling within the city of London or the liberties thereof or within ten miles of the said city, shall within three months next after the end of this session of parliament depart from the said city of London and ten miles compass of the same, . . . upon pain that every person offending herein shall forfeit to our Sovereign Lord the King's Majesty, his heirs and successors, the sum of £100 . . .

III. Provided always, That such person or persons as now use any trade, mystery or manual occupation within the said city of London or within ten miles of the same, and such as have their only dwelling within the said city or ten miles compass of the same, not having any other place of abode elsewhere, may remain in such place within the said city or ten miles of the same as they have dwelled in by the space of three months next before this present session of parliament . . .

IV. [Stat. 35 Eliz. 2. §§ 1, 2 confirmed; § 7 (of licences to travel beyond five miles, to be granted by two justices of the peace and certain others) repealed.]

V. [Such licences may be granted by the King or three of the Privy Council without cause assigned, or by four justices of the peace for cause assigned on oath.]

VI. And be it further enacted, That no recusant convict shall at any time after the end of this session of parliament practise the common law of this realm as a counsellor, clerk, attorney or solicitor in the same, nor shall practise the civil law as advocate or proctor; nor practise physic, nor exercise or use the trade or art of an apothecary; nor shall be judge, minister, clerk or steward in any court, or keep any court, nor shall be register or town-clerk or other minister or officer in any court; nor shall bear any office or charge as captain, lieutenant, corporal, sergeant, ancient-bearer or other office in camp, troop, band or company of soldiers; nor shall be captain, master, governor, or bear any office or charge in any ship, castle or fortress of the King's Majesty's, his heirs and successors; . . . and every person offending herein shall also forfeit for every such offence £100 . . .

VII. And be it also enacted, That no Popish recusant convict nor any having a wife being a Popish recusant convict shall . . . exercise any public office in the commonwealth, but shall be utterly disabled to exercise the same by himself or by his deputy, except such husband himself and his children which shall be above the age of nine years abiding with him and his servants in household shall once every month at the least, not having any reasonable excuse to the contrary, repair to some church or chapel usual for divine service and there hear divine service; and the said husband and such his children and servants as are of meet age receive the sacrament of the Lord's Supper, at such times as are limited by the laws of this realm, and do bring up his said children in true religion.

VIII. And be it also enacted, That every married woman being a Popish recusant convicted (her husband not standing convicted of Popish recusancy), which shall not conform herself . . . by the space of one whole year next before the death of her said husband, shall forfeit to the King's Majesty . . . the issues

and profits of two parts of her jointure and two parts of her dower, . . . and also be disabled to be executrix or administratrix of her said husband, and to have . . . any part of her said late husband's goods and chattels . . .

IX. And be it further enacted, That every Popish recusant . . . shall stand . . . disabled as a person lawfully and duly excommunicated, . . . and that every person sued by such person so disabled shall plead the same in disabling of such plaintiff, as if he were excommunicated by sentence in the ecclesiastical court [actions prosecuted by such recusant concerning his real property only excepted].

X. And . . . be it further enacted, That every man being a Popish recusant convicted, or who shall be hereafter married otherwise than in some open church or chapel and otherwise than according to the orders of the Church of England by a minister lawfully authorised, shall be utterly disabled to have any estate of freehold in any the lands [&c.] of his wife as tenant by the curtesy of England; and that every woman being a Popish recusant convicted and who shall be hereafter married in other form than as aforesaid shall be utterly disabled not only to claim any dower of the inheritance of her husband . . . or any jointure of the lands [&c.] of her husband or any of his ancestors, but also of her widow's estate and frank-bank in any customary lands whereof her husband died seised, and likewise be disabled to have any part of the goods of her said husband by virtue of any custom . . .: and if any such man be married with any woman contrary to . . . this Act, which woman hath no lands [&c.] whereof he may be entitled to be tenant by the curtesy, then such man . . . shall forfeit £100 . . .: and that every Popish recusant which shall hereafter have any child born shall within one month . . . cause the same child to be baptized by a lawful minister according to the laws of this realm in the open church, . . . upon pain that the father . . . or, if he be dead, then the mother of such child shall . . . forfeit £100 . . .: and if any Popish recusant man or woman, not being excommunicate, shall be buried in any place other than in the church or churchyard or not according to the ecclesiastical laws of this realm, that the executors . . . shall forfeit the sum of £20 . . .

XI. And be it further enacted, That if the children of any subject within this realm (the said children not being soldiers, mariners, merchants or their apprentices or factors), to prevent their good education in England or for any other cause, shall hereafter be sent or go beyond seas without licence of the King's Majesty or six of his honourable Privy Council, whereof the Principal Secretary to be one, . . . that then every such child shall take no benefit by any gift, conveyance, descent, devise or otherwise of any lands . . . goods or chattels, until he, being of the age of eighteen years or above, take the oath mentioned in an Act of parliament [1] made this present session, intituled [&c.], before some justice of peace of the county . . .; and that in the meantime the next of kin which shall be no Popish recusant shall have and enjoy the said lands [&c.] until such time as the person so sent or gone beyond the seas shall conform him or her self and take the aforesaid oath and receive the sacrament of the Lord's Supper . . .

XII. And for that many subjects of this realm . . . are of late gone beyond the seas without licence . . ., be it further enacted, That if any of the said persons . . . shall not within six months next after their return into this realm, then being of the age of eighteen years or more, take the oath above specified . . ., every such offender shall take no benefit by any gift . . . devise or otherwise of any lands . . . goods or chattels, until he . . . take the said oath; and that likewise in the meantime the next of kin . . . which shall be no Popish recusant shall enjoy the said lands [&c.] . . .

XIII. And be it further enacted, That every person that is a Popish recusant convict, during the time that he shall be a recusant, shall . . . be utterly disabled to present to any benefice with cure or without cure, prebend or any other ecclesiastical living, or to collate or nominate to any free school, hospital or donative whatsoever, and . . . shall likewise be disabled to grant any avoidance to any benefice, prebend or other ecclesiastical living; and that the chancellor and scholars of the University of Oxford, so often as any of them shall be void, shall have the presentation . . . to every such benefice [&c.] lying within [certain counties], and that the chancellor

[1] 3 and 4 Jac. I. 4. § 9 (above, p. 259).

and scholars of the University of Cambridge shall have [the same privilege within certain other counties].

XIV. Moreover, because recusants convict are not thought meet to be executors or administrators to any person nor to have the education of their own children, much less of the children of any other of the King's subjects, nor to have the marriage of them, be it therefore enacted, That such recusants . . . shall be disabled to be executor or administrator . . ., nor shall have the custody of any child, as guardian in chivalry, guardian in socage or guardian in nurture of any lands [&c.] being freehold or copyhold, . . . but shall be adjudged disabled to have such wardship or custody of any such child or of their lands [&c.]; and that for the better education and preservation of the said children and their estates the next of kin . . . to whom the said lands [&c.] . . . cannot lawfully descend, who shall usually resort to some church . . . and receive the holy sacrament of the Lord's Supper thrice in the year next before . . ., shall have the custody and education of the same child and of his said lands [&c.] being holden in knight-service, until the full age of the said ward . . ., and of his said lands [&c.] holden by copy of court-rolls of any manor so long as the custom of the said manor shall permit the same . . .

XV. And be it further enacted, That no person shall bring from beyond the seas, nor shall print, sell or buy any Popish primers, ladies-psalters, manuals, rosaries, Popish catechisms, missals, breviaries, portals, legends and lives of saints containing superstitious matter, printed or written in any language whatsoever, nor any other superstitious books printed or written in the English tongue, upon pain of forfeiture of 40*s.* for every such book . . .; and that it shall be lawful for any two justices of peace . . . and to all mayors, bailiffs and chief officers of cities and towns corporate . . . to search the houses and lodgings of every Popish recusant convict, or of every person whose wife is a Popish recusant convict, for Popish books and relics of Popery; and that if any altar, pyx, beads, pictures or such-like Popish relics or any Popish book shall be found in their custody, as in the opinion of the said justices [&c.] shall be thought unmeet for such recusant to have or use, the same shall be presently defaced and burnt, if it be meet to

be burnt, and if it be a crucifix or other relic of any price, the same to be defaced . . . and . . . to be restored to the owner again.

XVI. And be it also enacted, That all such armour, gunpowder and munition . . . as any Popish recusant convict within this realm of England hath in his house . . . or elsewhere . . . shall be taken . . . by warrant of four justices of peace at their general or quarter sessions . . . (other than such necessary weapons as shall be thought fit by the said four justices of peace to remain and be allowed for the defence of the person of such recusant or for the defence of his house) . . .

XIX. [Proviso as in 3 Jac. I. 4. § 25.]

First Parliament: Third Session.

Nov. 18, 1606—July 4, 1607.

4 & 5 Jac. I. Cap. I.

An Act for the utter abolition of all memory of hostility and the dependences thereof between England and Scotland, and for the repressing of occasions of discord and disorders in time to come.

I. For the honour, weal and good of these two mighty famous and ancient kingdoms of England and Scotland, and for the furtherance and advancement of the happy union already begun in his Majesty's royal person, be it enacted, That [Stat. 4 H. V. (2) 7 (letters of marque)] shall be utterly repealed. . . .

II. And be it further enacted, That [certain other statutes][1] shall be utterly repealed; and if there had appeared any other statute of this realm of England, wherein anything is ordained expressly against Scottishmen as enemies or Scotland as an enemy country . . ., we should, for so much of them as had so concerned Scottishmen or Scotland, have utterly abrogated

[1] 7 R. II. 16; 31 H. VI. 3; 7 H. VII. 6; 23 H. VIII. 16; 2 and 3 P. and M. 1; 1 Eliz. 7; 23 Eliz. 4.

and annulled the same, seeing all enmity and hostility of former times between the two kingdoms and peoples is now happily taken away, and under the government of his Majesty as under one parent and head turned into fraternity or brotherly friendship.

III. Provided nevertheless . . . That none of the articles in this Act before contained shall take effect . . . until these Acts of parliament of the realm of Scotland hereafter following[1] . . . shall by act of parliament of the said realm of Scotland be utterly repealed; and until also the said parliament of the realm of Scotland shall . . . make as full and ample declaration concerning their clear intention and desire of repeal of all other hostile laws of their part not before mentioned, if they were known, as on the part of this realm of England hath been in this present Act expressed.

IV. And be it further enacted, That one Act[2] made in the 5th year of King Richard the second, concerning the restraint of passage of his Majesty's subjects out of this realm . . . shall be from henceforth utterly repealed.

V. And be it further enacted, That no person subject of either realm shall be . . . any way troubled or called in question . . . by reason of any offences . . . (before the decease of the late Queen Elizabeth of famous memory) which were determinable by the laws or constitutions of the borders within the courts and jurisdiction of the late wardens or otherwise . . .

VI. And forasmuch as no abolition of hostile laws or of the memory of hostility . . . can presently extirpate those inveterate evil customs and disorders . . . wherewith the worst sorts of inhabitants near the limit of both realms were infected; . . . and whereas experience teacheth that the malefactors of either realm having committed their offences in the other realm do forthwith escape many times into their own country, thereby to purchase their impunity; . . . and whereas in regard of some difference . . . in cases of life between the justice of the realm of England and that of the realm of Scotland, it appeareth to be most convenient . . . to proceed with all possible severity

[1] Certain hostile Acts of the Parliament of Scotland are here mentioned.
[2] 5 R. II. (1) 2.

against offenders in their own country according to the laws of the same; . . . be it therefore enacted, That all offences[1] . . . committed by any subjects of this realm of England . . . within the realm of Scotland . . . shall be from henceforth enquired of, heard and determined before his Majesty's justices of assize or his commissioners of oyer and terminer or gaol delivery . . ., by good and lawful men of the counties of Cumberland, Northumberland, Westmoreland . . ., in like manner . . . as if such offences had been committed within the same shire where they shall be so enquired of, heard and determined . . .

XV. And be it further enacted, That no natural born subject of the realm of England . . . shall for any high treason . . . or any other offence or cause committed within Scotland be sent out of England where he is apprehended, to receive his trial, until such time as both realms shall be made one in laws and government, which is the thing so much desired as that wherein the full perfection of the blessed union already begun in his Majesty's royal person consisteth . . .

First Parliament: Fourth Session.

Feb. 9—July 23, 1610.

7 & 8 Jac. I. Cap. I.

An Act for the better execution of justice and suppressing of criminal offenders in the north parts of the kingdom of England.

I. Whereas in a statute[2] made in the third session of this present parliament, intituled [&c.], it was enacted [&c.], since the making of which statute . . . there hath not been any one offender committing any the offences aforesaid in Scotland, that hath been prosecuted . . . in England . . .; whereby it manifestly appeareth that the said clause in the said statute . . . hath not brought forth that good effect as was hoped for . . .; be it

[1] Various offences of a grave or felonious nature are here recited.
[2] 4 Jac. I. 1. § 6.

enacted . . . That if . . . any person shall commit any offence within the realm of Scotland . . . which by the laws of this realm of England is declared to be petty treason [or some one of various offences mentioned] and escape into the realm of England and be apprehended within any the counties of Northumberland, Cumberland, Westmoreland . . . or within the parts lying on the north side of the river of Tyne . . . , it shall be lawful for the justices of assize [&c.] or the justices of peace in their general or quarter sessions . . . to remand such offenders into the realm of Scotland, there to receive their trial . . .

II. Provided . . . That this statute nor any clause therein contained shall take effect . . . until a law by Act of parliament be made within the realm of Scotland for the sending out of Scotland into England all persons born within the realm of Scotland which shall at any time hereafter commit any the offences aforesaid within the realm of England, to receive their trial in the realm of England . . .

7 & 8 Jac. I. Cap. IV.

An Act for the due execution of divers laws and statutes heretofore made against rogues, vagabonds and sturdy beggars and other lewd and idle persons.

I. Whereas heretofore divers good and necessary laws and statutes have been made for the erection of houses of correction, for the suppressing and punishing of rogues, vagabonds and other idle vagrant and disorderly persons, which laws have not wrought so good effect as was expected, as well for that the said houses of correction have not been built . . . as also for that the said statutes have not been duly and severely put in execution . . . ; for remedy whereof be it enacted . . . That all laws and statutes now in force made for building of houses of correction and for punishing of rogues . . . and idle persons shall be put in due execution.

II. And be it further enacted, That before the feast of St Michael the Archangel . . . 1611 there shall be . . . built or otherwise provided within every county of this realm of England and Wales, where there is not one house of correction

already . . ., one or more fit and convenient houses of correction with convenient back-side thereunto adjoining, together with . . . necessary implements to set the said . . . idle persons on work . . .

III. And be it further enacted, That if the said house . . . shall not be . . . provided before the feast of St Michael . . . 1611 . . . that then every justice of peace within every county . . . where such house . . . shall not be provided shall forfeit for his said neglect £5 . . .

IV. And be it further enacted, That the justices of peace of every county . . . at their quarter sessions . . . shall . . . appoint . . . one or more honest, fit persons to be governor or master of the said houses . . .; which persons so chosen . . . shall have power to set such . . . idle and disorderly persons as shall be brought or sent unto the said house to work and labour (being able), . . . and that the said . . . idle persons, during such time as they shall continue in the said house of correction, shall in no sort be chargeable to the country for any allowance . . . but shall have such allowance as they shall deserve by their own labour and work.

V. And be it further enacted, That the said justices of peace . . . within every of their several divisions, twice in every year at the least and oftener if there be occasion, shall meet together for the better execution of this statute, and at some four or five days before their meeting . . . shall . . . command the constables and tithing-men . . . within their said several divisions, which shall be assisted with sufficient men of the same places, to make a general privy search in one night . . . for the finding out and apprehending of the said rogues . . . and idle persons; and that such rogues [&c.] as they shall then find . . . shall by them be brought before the said justices . . ., there to be examined . . . punished or otherwise : . . . conveyed unto the said house of correction, . . . there . . . to be set to labour . . .

VIII. And for that many wilful people, . . . able to labour and thereby to relieve themselves and their families, do nevertheless run away out of their parishes and leave their families upon the parish, . . . be it further enacted . . . That all such persons . . . shall be deemed to be incorrigible rogues, and endure the pains of incorrigible rogues . . .

7 & 8 Jac. I. Cap. VI.

An Act for administering the oath of allegiance, and reformation of married women recusant.

I. Whereas by a statute[1] made in the third year of your Majesty's reign, intituled [&c.], the form of an oath to be ministered to certain persons in the same Act mentioned is prescribed, tending only to the declaration of such duty, as every true and well affected subject . . . ought to bear to your Majesty . . .; and to shew how greatly your loyal subjects do approve the said oath, they prostrate themselves at your Majesty's feet, beseeching your Majesty that the same oath may be administered to all your subjects; to which end . . . be it enacted, That all persons, as well ecclesiastical as temporal, . . . above the age of eighteen years, being hereafter in this Act mentioned and intended, shall make a corporal oath upon the evangelists according to the tenour and effect of the said oath set forth in the said forementioned statute, before such person or persons as hereafter in this Act is expressed . . .

II. And to the intent that due execution may be had of the premisses without delay, it is further enacted, That all the persons before named, who have any certain time limited when to take the aforesaid oath, shall at the time therein prescribed take the same, and the rest within six months next after the end of this present session of parliament.

III. And be it further enacted, That it shall be lawful for any one of the privy council . . . and for every bishop within his diocese, to require any baron or baroness of the age of eighteen or above to take the said oath, and for any two justices of peace within any county, city or town corporate, whereof one to be of the quorum, to require any person of the age of eighteen years or above, under the degree of a baron or baroness to take the said oath; and if any person of or above the said age and degree . . . stand indicted or convicted for not coming to church or not receiving the Holy Communion . . . according to the laws and statutes of this realm . . ., then three of the privy council . . . whereof the Lord Chancellor, Lord Treasurer, Lord Privy Seal or Principal Secretary to be

[1] 3 Jac. I. 4. § 9: above, p. 258.

one, upon knowledge thereof, shall require such person to take the said oath; and if any other person of or above the said age and under the said degree . . . stand and be presented, indicted or convicted for not coming to church or receiving the Holy Communion . . . according to the laws and statutes of this realm . . ., or if the minister, petty constable and churchwardens or any two of them shall . . . complain to any justice of peace near adjoining to the place where any person complained of shall dwell, and the said justices shall find cause of suspicion, that then any one justice of peace, within whose commission or power such person shall be, or to whom complaint shall be made as aforesaid, shall upon notice thereof require such person to take the said oath . . .; and that if any person . . . shall refuse to take the said oath . . ., that then the persons authorised by this law to give the said oath shall commit the same offender to the common gaol, there to remain . . . until the next assizes or general quarter sessions, . . . where the said oath shall be again . . . required of such person . . .; and if the said person . . . shall refuse to take the said oath . . . every person so refusing shall incur the penalty of praemunire.

IV. And be it further enacted, That every person refusing to take the said oath as above shall be disabled . . . to execute any public place of judicature or bear any other office (being no office of inheritance or ministerial function) within this your Highness' realm of England, or to use or practise the common law or civil law, or the science of physic or surgery, or the art of an apothecary, or any liberal science, for his or their gain, within this realm, until such time as the same person shall receive the same oath according to the intent of this statute.

V. And be it further enacted, That if any married woman, being lawfully convicted as a popish recusant for not coming to church, shall not within three months next after such conviction conform herself and repair to the church and receive the Sacrament of the Lord's Supper according to the former laws . . ., that then she shall be committed to prison by one of the privy council . . . or by the bishop of the diocese if she be a baroness, or if she be under that degree, by two justices of the peace of the same county, whereof one to be of the quorum, there to remain . . . until she shall conform herself . . .,

unless the husband of such wife shall pay . . . for every month £10 . . . or else the third part . . . of all his lands and tenements, at the choice of the husband whose wife is so convicted, during so long time as she remaining a recusant convicted shall continue out of prison . . .

First Parliament: Fifth Session.

Oct. 16—Dec. 6, 1610.

(No Statutes passed.)

Second Parliament.

April 5—June 7, 1614.

(No Statutes passed.)

Third Parliament: First and Second Sessions.

Jan. 30—June 4, and Nov. 20—Dec. 18, 1621.

(Two Acts of Subsidies alone passed.)

Fourth Parliament.

Feb. 19—May 29, 1624.

21 & 22 Jac. I. Cap. III.

An Act concerning monopolies, and dispensations with penal laws, and the forfeiture thereof.

I. Forasmuch as your most excellent Majesty, in your royal judgment and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God, 1610, publish in print to the whole realm and to all posterity, That all grants of monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty's laws; which your Majesty's declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm: and whereas your Majesty was further graciously pleased expressly to command, that no suitor should presume to move your Majesty for matters of that

nature; yet nevertheless, upon misinformations and untrue pretences of public good, many such grants have been unduly obtained and unlawfully put in execution, to the great grievance and inconvenience of your Majesty's subjects, contrary to the laws of this your realm and contrary to your Majesty's royal and blessed intention so published as aforesaid: for avoiding whereof and preventing of the like in time to come, may it please your most excellent Majesty . . . that it may be declared and enacted, and be it declared and enacted . . . That all monopolies and all commissions, grants, licences, charters and letters patents . . . to any person, bodies politic or corporate whatsoever, for the sole buying, selling, making, working or using of anything within this realm or the dominion of Wales, or of any other monopolies, or of power to dispense with any others, or to give licence or toleration to do anything against the tenour of any law or statute, or to give or make any warrant for any such dispensation, licence or toleration, . . . or to agree or compound with any others for any penalty or forfeitures limited by any statute, or of any grant or promise of the benefit of any forfeiture, penalty or sum of money that shall be due by any statute, before judgment thereupon had, and all proclamations, inhibitions, restraints, warrants of assistance, and all other things whatsoever, any way tending to the instituting . . . or countenancing of the same . . . , are altogether contrary to the laws of this realm, and so are and shall be utterly void and of none effect . . .

II. And be it further enacted, That all monopolies and all such commissions, grants [&c.], and all other things tending as aforesaid . . . ought to be and shall be for ever hereafter . . . tried and determined according to the common laws of this realm, and not otherwise.

V. Provided nevertheless, . . . That any declaration beforementioned shall not extend to any letters patents and grants of privilege for the term of one and twenty years or under, heretofore made of the sole working or making of any manner of new manufacture within this realm to the first and true inventor or inventors of such manufactures, which others at the time of the making of such letters patents and grants did not use, so they be not contrary to the law, nor mischievous to the state by

raising of the prices of commodities at home or hurt of trade, or generally inconvenient, but that the same shall be of such force as they were or should be if this Act had not been made . . .

VI. Provided also, and be it enacted, That any declaration beforementioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures . . .

IX. Provided also, . . . That this Act . . . shall not in any wise extend or be prejudicial unto the city of London or to any city, borough or town corporate within this realm, for any grants, charters or letters patents to them . . . granted, or for any customs used by or within any of them, or unto any corporations, companies or fellowships of any art, trade, occupation or mystery, or to any companies or societies of merchants within this realm erected for the maintenance . . . of any trade of merchandise . . .

X–XIV. [Various special exemptions.]

21 & 22 Jac. I. Cap. X.

An Act of repeal of one branch of a statute made in the 34th year of King Henry the Eighth.

I. Whereas the subjects of the country and dominion of Wales have been constantly loyal and obedient, . . . and whereas by an Act[1] of parliament made in the 34th year of the reign of the late King Henry the Eighth, intituled [&c.], it is enacted . . . That the King's most royal Majesty may . . . from time to time . . . make laws and ordinances for . . . his said dominion of Wales, . . . and that . . . all such laws and ordinances . . . shall be of as good effect as if they had been made by authority of parliament . . .; for the abolition of distinction between the subjects of England and Wales, his most excellent Majesty . . . is graciously pleased that it may be enacted, . . . and be it enacted, That the said recited branch of the said Act of parlia-

[1] 34 and 35 H. VIII. 26. § 59.

ment . . . be utterly repealed, . . . and that the King's Majesty, his heirs or successors, shall not by virtue of . . . the said Act, at any time hereafter, alter . . . any laws, usage or custom, or make any new laws for the said dominion or principality of Wales.

21 & 22 Jac. I. Cap. XXVIII.

An Act for continuing and reviving of divers statutes and repeal of divers others.

VII. Be it also enacted . . . That no sanctuary or privilege of sanctuary shall be hereafter allowed in any case.

21 & 22 Jac. I. Cap. XXXIII.

An Act for payment of three subsidies and three fifteens by the temporality.

I. Most gracious Sovereign, we your Majesty's most humble, faithful and loving subjects, . . . having entered into serious and due consideration of the weighty and most important causes which at this time more than at any other time heretofore do press your Majesty to a much greater expense than your own treasure alone can at this present support, and likewise of the injuries and indignities which have been lately offered to your Majesty and your children, under colour and during the time of the treaties for the marriage with Spain and the restitution of the Palatinate, which in this parliament have been clearly laid open unto us; and withal what humble advice, with one consent and voice, we have given unto your Majesty to dissolve those treaties, which your Majesty hath been graciously pleased to our exceeding joy and comfort fully to yield unto . . .; we in all humbleness most ready and willing to give unto your Majesty and the whole world an ample testimony of our dutiful affections and sincere intentions to assist you therein, for the maintenance of that war that may hereupon ensue, and more particularly for the defence of this your realm of England, the securing of your kingdom of Ireland, the assistance of your neighbours the States of the United Provinces and other your Majesty's friends and allies, and for the setting forth of your

royal navy, we have resolved to give for the present the greatest aid which ever was granted in parliament to be levied in so short a time; and therefore . . . be it declared by the authority of this present parliament, That the said two treaties are by your Majesty utterly dissolved; and for the maintenance of the war which may ensue thereupon and for the causes aforesaid, be it enacted, That three whole fifteens and tenths shall be levied . . . in manner aforetime used, . . . to be paid unto the hands of Sir Thomas Middleton Knight and Alderman of London [and seven others named], treasurers especially appointed by this Act to receive and issue the same . . .

IV. And furthermore, for the great and weighty considerations aforesaid, we the Lords spiritual and temporal and the Commons . . . give and grant to your Highness . . . three entire subsidies . . .

XXXVI. And be it further enacted, That all the sums of money by this present Act granted to the uses aforesaid shall be paid by the several collectors thereof . . . unto the said treasurers . . .

XXXVII. And to the end that all the sums of money by this present Act granted . . . may be truly expended for the uses aforesaid and not otherwise, according to your Majesty's own gracious desire; be it further enacted, That the moneys to be received by the said treasurers by virtue of this Act shall be issued . . . to such persons and in such manner as by the warrant of George Lord Carew [and nine others named], which ten persons his Majesty hath already nominated to be of his council for the war, or any five or more of them, whereof two of them to be of his Majesty's most honourable Privy Council, . . . shall be directed, and not otherwise . . .

XXXIX. And be it further enacted, That as well the said treasurers as the said persons appointed for the council of war and all other persons who shall be trusted with the receiving, issuing, bestowing and employing of these moneys . . . shall be answerable . . . to the Commons in parliament, when they shall be thereunto required by warrant under the hand of the Speaker of the House of Commons . . .

XLI. And be it further enacted, That when the Commons in parliament have heard . . . the dealings of any the persons afore-

said . . . the offenders being no Lords of parliament shall by the House of Commons be committed to the Tower of London, there to remain close prisoners until by order of the House of Commons they be delivered; and if any the Lords of parliament shall be found offenders, then the Commons in parliament shall present their offence to the Lords in parliament, and thereupon the Lords in parliament shall have power to hear, examine and determine the offence so presented, and to commit them likewise to the Tower of London, there to remain close prisoners until by order of that house they shall be delivered.

XLII. And be it further enacted, That the offenders in every such case shall undergo such further censure and punishment as to justice shall appertain, . . . according to the judgment of either house respectively.

XLIII. And to the end that as well the said council of war as the said treasurers may the better observe and perform the trust aforesaid, . . . they shall severally and distinctly take these respective oaths following, . . . before the Lord Keeper of the Great Seal or Master of the Rolls within one week after the end of this present session of parliament . . .

II.—PARLIAMENTARY PROCEEDINGS.

I. General.

1. *Proclamation concerning the choice of knights and burgesses for the parliament.*

. . . We do hereby straitly charge and admonish all persons interested in the choice of knights for the shires, first, that the knights for the county be selected out of the principal knights or gentlemen of sufficient ability within that county wherein they are chosen: and, for the burgesses, that choice be made of men of sufficiency and discretion without any partial respects or factious combination. . . . Next and above all things, considering that one of the main pillars of this estate is the preservation of unity in the profession of sincere religion of

Almighty God, we do also admonish that there be great care taken to avoid the choice of any persons either noted for their superstitious blindness one way or for their turbulent humours other ways, because their disorderly and unquiet spirits will disturb all the discreet and modest proceeding in that greatest and gravest council. Further we do command that an express care be had that there be not chosen any persons bankrupts or outlawed, but men of known good behaviour and sufficient livelihood, and such as are not only taxed to the payment of subsidies and other like charges, but also have ordinarily paid and satisfied the same . . . Next, that all sheriffs be charged that they do not direct any precept for electing and returning of any burgesses to or for any ancient borough-town within their counties, being so utterly ruined and decayed that there are not sufficient resiants to make such choice, and of whom lawful election may be made; also to charge all cities and boroughs, that none of them seal any blanks, referring or leaving to any others to insert the names of any citizens or burgesses to serve for any such city or borough, but that the inhabitants of every such city or borough do make open and free election according to the law, and set down the names of the persons whom they choose before they seal the certificate. Furthermore we notify by these presents, that all returns and certificates of knights, citizens and burgesses ought and are to be brought to the Chancery, and there to be filed of record. And if any shall be found to be made contrary to this proclamation, the same is to be rejected as unlawful and insufficient, and the city or borough to be fined for the same. And if it be found that they have committed any gross or wilful default and contempt in their election, return or certificate, that then their liberties according to the law are to be seized into our hands as forfeited. And if any person take upon him the place of a knight, citizen or burgess, not being duly elected, returned and sworn according to the laws and statutes in that behalf provided, and according to the purport, effect and true meaning of this our proclamation, then every person so offending to be fined and imprisoned for the same . . .

Hampton Court, the 11 day of January, [1604.]

Proclamation Book, James I, vol. II. p. 57.

2. *Speech of James I at the opening of Parliament, 19 March, 1604.*

It did no sooner please God to lighten his hand, and relent the violence of his devouring angel against the poor people of this city, but as soon did I resolve to call this parliament, and that for three chief and principal reasons. The first whereof is . . . that you . . . may with your own ears hear, and that I out of my own mouth may deliver unto you, the assurance of my due thankfulness for your so joyful and general applause to the declaring and receiving of me in this seat, which God, by my birthright and lineal descent, had, in the fulness of time, provided for me . . .

For expressing of my thankfulness, I must resort unto the other two reasons of my convening this parliament . . . As to the first, it is the blessings which God hath, in my person, bestowed upon you all . . . The first then of these blessings which God hath jointly with my person sent unto you, is outward peace; that is, peace abroad with all foreign neighbours . . . But, although outward peace be a great blessing, yet is it as far inferior to peace within, as civil wars are more cruel and unnatural than wars abroad. And therefore the second great blessing that God hath, with my person, sent unto you, is peace within, and that in a double form: first, by my descent lineally out of the loins of Henry VII is reunited and confirmed in me the union of the two princely roses of the two houses of Lancaster and York . . .

But the union of these two princely houses is nothing comparable to the union of two ancient and famous kingdoms, which is the other inward peace annexed to my person . . . If we were to look no higher than to natural and physical reasons, we may easily be persuaded of the great benefits that by that union do redound to the whole island; for if twenty thousand men be a strong army, is not the double thereof, forty thousand, a double the stronger army? . . . But what should we stick upon any natural appearance, when it is manifest that God, by his Almighty Providence, hath pre-ordained it so to be? Hath not God first united these two kingdoms, both in language and religion and similitude of manners? Yea, hath he not made

us all in one island, compassed with one sea, and of itself by nature so indivisible, as almost those that were borderers themselves on the late borders cannot distinguish nor know or discern their own limits? . . . What God hath conjoined then, let no man separate. I am the husband and all the whole isle is my lawful wife: I am the head and it is my body: I am the shepherd and it is my flock . . .

But . . . all worldly blessings are but like swift passing shadows, fading flowers, or chaff blown before the wind, if by the profession of true religion and works according thereunto God be not moved to maintain and settle the thrones of princes . . . At my first coming, although I found but one religion, and that which by myself is professed, publicly allowed and by the law maintained, yet found I another sort of religion, besides a private sect, lurking within the bowels of this nation. The first is the true religion, which by me is professed and by the law is established: the second is the falsely called Catholics, but truly Papists: the third, which I call a sect rather than a religion, is the Puritans and Novelists, who do not so far differ from us in points of religion as in their confused form of policy and parity; being ever discontented with the present government and impatient to suffer any superiority, which maketh their sect unable to be suffered in any well-governed commonwealth. But as for my course toward them, I remit it to my proclamations made upon that subject.

And now, for the Papists, I must put a difference betwixt mine own private profession of mine own salvation, and my politic government of the realm for the weal and quietness thereof. As for my own profession, you have me your head now amongst you of the same religion that the body is of . . . But as I would be loather to dispense in the least point of mine own conscience for any worldly respect than the foolishest precisian of them all, so would I be as sorry to strait the politic government of the bodies and minds of all my subjects to my private opinions: nay, my mind was ever so free from persecution or thralling of my subjects in matters of conscience, as I hope that those of that profession within this kingdom have a proof since my coming, that I was so far from increasing their burdens with Rehoboam, as I have, so much as

either time, occasion or law could permit, lightened them. And even now at this time have I been careful to revise and consider deeply upon the laws made against them, that some overture may be proponed to the present parliament for clearing these laws by reason, which is the soul of the law, in case they have been, in times past, further or more rigorously extended by judges than the meaning of the law was, or might tend to the hurt as well of the innocent as of guilty persons.

And as to the persons of my subjects which are of that profession, I must divide them into two ranks, clerics and laics. For the part of the laics, certainly I ever thought them far more excusable than the other sort . . . But for the part of the clerics, I must directly say and affirm, that as long as they maintain one special point of their doctrine and another point of their practice, they are no way sufferable to remain in this kingdom. Their point of doctrine is that arrogant and ambitious supremacy of their head, the Pope, whereby he not only claims to be spiritual head of all Christians, but also to have an imperial civil power over all kings and emperors . . . The other point which they observe in continual practice is the assassinates and murders of kings, thinking it no sin but rather a matter of salvation to do all acts of rebellion and hostility against their natural sovereign lord, if he be once cursed, his subjects discharged of their fidelity, and his kingdom given a prey by that three-crowned monarch, or rather monster, their head.

And in this point I have no occasion to speak further here, saving that I could wish from my heart, that it would please God to make me one of the members of such a general Christian union in religion, as laying wilfulness aside on both hands, we might meet in the midst, which is the centre and perfection of all things . . . But of one thing would I have the Papists of this land to be admonished, that they presume not so much upon my lenity (because I would be loth to be thought a persecutor) as thereupon to think it lawful for them daily to increase their number and strength in this kingdom; whereby, if not in my time, at least in the time of my posterity, they might be in hope to erect their religion again. No; let them assure themselves that, as I am a friend to their persons, if they be good

subjects, so am I a vowed enemy and do denounce mortal war to their errors.

The King's Majesty's Speech . . . 19 March, 1603 (*Barker* 1604)[1].

3. *Articles of debate in a conference between the two Houses, 5 May,* 1604[2].

(1) That the articles only concerning the doctrine of faith and of the sacraments, whereunto the ministers ought to subscribe by the statute[3] of the thirteenth year of the reign of the late Queen Elizabeth, may be explained, perfected and established by parliament; and that no contrary doctrine may be taught within this realm; and that all masters of household may be compelled to subscribe unto the same articles, as well as the ministers.—(2) That from henceforth none other be admitted to be ministers of the word and sacrament, than such as are, at the time of their admittance, bachelors of art, or of an higher degree in schools; having testimony from the university or college, whereof he was, of his ability to preach and of his good life; or else such as are approved and allowed to be sufficient to preach and instruct the people and to be of good life, by some testimonial of six preachers of the county where the party dwelleth.—(3) That from henceforth no dispensation or toleration shall be allowed to any, to have or retain two or more benefices with cure of souls or to be non-resident; and that such as have now double benefices or be non-resident shall give sufficient allowance yearly to maintain a preacher in their absence; and that, for this purpose, the incumbent shall be allotted to make his residency in one of his parsonages, to the intent that in the other church a certain and constant minister may be maintained and kept.—(4) Also it is thought meet, where the living of the vicar or curate is under £20 by the year, that, for the better maintenance of the vicar or curate (being a preacher), there may be some increase made of his living, as shall be thought convenient.—

[1] Printed also in the *Works of James I* (1616), pp. 485 ff.

[2] '5 May, 1604. Certain articles or heads, six in number, agreed on by the Committee for matters of religion, to be handled in conference with the Lords, delivered into the House' (*C. J.* I. p. 199).

[3] 13 Eliz. 12. § 1.

(5) Also it is humbly desired, that the lords would confer with us, touching a petition to be preferred to the King's Majesty that, by his gracious favour, such order be taken, that no minister be forced to subscribe, otherwise than to the Articles concerning only the doctrine of faith and sacraments, whereunto by the said statute made in the thirteenth year of the reign of the late Queen Elizabeth they are appointed to subscribe.—(6) Also to confer with the lords, that such faithful ministers as dutifully carry themselves in their functions and callings, teaching the people diligently, may not be deprived, suspended, silenced or imprisoned, for not using of the cross in baptism or the surplice, which turneth to the punishment of the people.—Touching ecclesiastical courts, there is a bill drawn by the committees, ready to be preferred to the House.

Commons' Journals, I. p. 199.

4. *Apology of the House of Commons, 20 June, 1604.*

To the King's most excellent Majesty, from the House of the Commons assembled in parliament[1].

Most gracious Sovereign, . . . we know, and with great thankfulness to God acknowledge, that he hath given us a king of such understanding and wisdom as is rare to find in any prince in the world. Howbeit, seeing no human wisdom, how great soever, can pierce into the particularities of the rights and customs of [a] people or of the sayings and doings of particular persons, but by tract of experience and faithful report of such as know them, . . . what grief, what anguish of mind hath it been unto us at some time in presence to hear, and so in other things to find and feel by effect your gracious Majesty (to the extreme prejudice of all your subjects of England, and in particular of this House of the Commons thereof) so greatly wronged by misinformation, as well touching the estate of the one as the privileges of the other, and their several proceedings during this parliament . . .

[1] '20 June, 1604. The Form of Apology and Satisfaction, to be presented to his Majesty, . . . was now reported and delivered in to the House' (*C. J.* I. p. 243). It does not appear whether the Apology was ever presented to the King, or not. Only a few lines are entered in the *Journals*. There is a copy among the State Papers (Dom.), James I. VIII. 70.

But now no other help or redress appearing, and finding these misinformations to have been the first, yea, the chief and almost the sole cause of all the discontentful and troublesome proceedings so much blamed in this parliament, . . . we have been constrained . . . to break our silence, and freely to disclose unto your Majesty the truth of such matters concerning your subjects the Commons, as hitherto by misinformation hath been suppressed or perverted. Wherein that we may more plainly proceed (which next unto truth we affect in this discourse), we shall reduce these misinformations to three principal heads; first, touching the cause of the joyful receiving of your Majesty into this your kingdom: secondly, concerning the rights and liberties of your subjects of England and the privileges of this House: thirdly, touching the several actions and speeches passed in the House.

. . . Now concerning the ancient rights of the subjects of this realm, chiefly consisting in the privileges of this house of parliament, the misinformation openly delivered to your Majesty hath been in three things: first, that we held not privileges of right, but of grace only, renewed every parliament by way of donature upon petition, and so to be limited. Secondly, that we are no Court of Record, nor yet a court that can command view of records; but that our proceedings here are only to acts and memorials, and that the attendance with the records is courtesy, not duty. Thirdly and lastly, that the examination of the return of writs for knights and burgesses is without our compass, and due to the chancery.

Against which assertions, most gracious Sovereign, tending directly and apparently to the utter overthrow of the very fundamental privileges of our House, and therein of the rights and liberties of the whole Commons of your realm of England, which they and their ancestors from time immemorable have undoubtedly enjoyed under your Majesty's most noble progenitors, we the knights, citizens and burgesses of the House of Commons assembled in parliament and in the name of the whole Commons of the realm of England, with uniform consent for ourselves and our posterity, do expressly protest, as being derogatory in the highest degree to the true dignity, liberty and authority of your Majesty's high court of parliament and

consequently to the rights of all your Majesty's said subjects and the whole body of this your kingdom; and desire that this our protestation may be recorded to all posterity. And contrariwise, with all humble and due respect to your Majesty our sovereign lord and head, against these misinformations we most truly avouch, first, that our privileges and liberties are our right and due inheritance, no less than our very lands and goods. Secondly, that they cannot be withheld from us, denied or impaired, but with apparent wrong to the whole state of the realm. Thirdly, that our making of request in the entrance of parliament to enjoy our privilege is an act only of manners, and doth weaken our right no more than our suing to the King for our lands by petition, which form, though new and more decent than the old by *praecipe*, yet the subject's right is no less now than of old. Fourthly, we avouch also that our House is a court of record, and so ever esteemed. Fifthly, that there is not the highest standing court in this land that ought to enter into competency either for dignity or authority with this high court of parliament, which with your Majesty's royal assent gives laws to other courts, but from other courts receives neither laws nor orders. Sixthly and lastly, we avouch that the House of Commons is the sole proper judge of return of all such writs, and of the election of all such members as belong unto it, without which the freedom of election were not entire; and that the chancery, though a standing court under your Majesty, be to send out those writs and receive the returns and to preserve them, yet the same is done only for the use of the parliament; over which neither the chancery nor any other court ever had or ought to have any manner of jurisdiction.

From these misinformed positions, most gracious Sovereign, the greatest part of our troubles, distrusts and jealousies have risen: having apparently found, that in the first parliament of the happy reign of your Majesty the privileges of our House, and therein the liberties and stability of the whole kingdom, have been more universally and dangerously impugned than ever (as we suppose) since the beginnings of parliament . . .

First, the freedom of persons in our election hath been impeached. Secondly, the freedom of our speech prejudiced by often reproofs. Thirdly, particular persons noted with taunt

and disgrace, who have spoken their consciences in matters proposed to the House, but with all due respect and reverence to your Majesty. Whereby we have been in the end subject to so extreme contempt, as a gaoler durst so obstinately withstand the decrees of our House [1]; some of the higher clergy [2] to write a book against us, even sitting the parliament; the inferior clergy to inveigh against us in pulpits, yea to publish their protestations, tending to the impeachment of our most ancient and undoubted rights in treating of matters for the peace and good order of the Church.

What cause we your poor Commons have to watch over our privileges, is manifest in itself to all men. The prerogatives of princes may easily, and do daily grow: the privileges of the subject are for the most part at an everlasting stand. They may be by good providence and care preserved, but being once lost are not recovered but with much disquiet.

The rights and liberties of the Commons of England consisteth chiefly in these three things: first, that the shires, cities and boroughs of England, by representation to be present, have free choice of such persons as they shall put in trust to represent them: secondly, that the persons chosen, during the time of the parliament, as also of their access and recess, be free from restraint, arrest and imprisonment: thirdly, that in parliament they may speak freely their consciences without check and controlment, doing the same with due reverence to the sovereign court of parliament, that is, to your Majesty and both the Houses, who all in this case make but one politic body, whereof your Highness is the head.

These three several branches of the ancient inheritance of our liberty were in three matters ensuing apparently injured: the freedom of election, in the case of Sir Francis Goodwin; the freedom of the persons elected, in Sir Thomas Shirley's imprisonment; the freedom of our speech, as by divers other reproofs, so also in some sort by the Bishop of Bristol's invective.

For the matter of Sir F. Goodwin [3], the knight chosen for Buckinghamshire, we were and still are of a clear opinion, that the freedom of election was in that action extremely injured;

[1] In Sir T. Shirley's case (p. 320). [2] The Bishop of Bristol.
[3] Below, p. 325.

that by the same right it might be at all times in a Lord Chancellor's power reverse, defeat, evert and substitute all the elections and persons elected over all the realm. Neither thought we that the judges' opinion, which yet in due place we greatly reverence, being delivered what the common law was, which extends only to inferior and standing courts, ought to bring any prejudice to this high court of parliament, whose power being above the law is not founded on the common law, but have their rights and privileges peculiar to themselves . . . Wherein, though we suppose the wrong done to be most apparent and extremely prejudicial for the rights and liberties of this realm, yet such and so great was our willingness to please your Majesty as to yield to a middle course proposed by your Highness, preserving only our privileges by voluntary cessions of the lawful right . . .

In the delivery of Sir T. Shirley our proceedings were long; our defence of them shall be brief. We had to do with a man, the Warden of the Fleet, so intractable and of so resolved obstinacy, as that nothing we could do, no, not your Majesty's royal word for confirmation thereof, could satisfy him for his own security. This was the cause of the length of that business; our privileges were so shaken before and so extremely vilified, as that we held it not fit, in so unseasonable a time and against so mean a subject, to seek our right by any other course of law, or by any strength than by our own.

The Bishop of Bristol's book was injurious and grievous to us, being written expressly with contempt of the parliament and of both the Houses in the highest degree. . . . These wrongs were to the dignity of our House and privileges.

Touching the causes appertaining to State and Church, true it is we were long in treating and debating the matter of Union. The propositions were new, the importance great, the consequence far-reaching and not discoverable but by long disputes . . . For matter of religion, it will appear, by examination of truth and right, that your Majesty should be misinformed, if any man should deliver that the kings of England have any absolute power in themselves, either to alter religion (which God defend should be in the power of any mortal man whatsoever) or to make any laws concerning the same, otherwise than

as in temporal causes by consent of parliament. We have and shall at all times by our oaths acknowledge, that your Majesty is sovereign lord and supreme governor in both. Touching our own desires and proceedings therein, they have not been a little misconceived and misreported. We have not come in any Puritan or Brownish spirit to introduce their parity[1], or to work the subversion of the state ecclesiastical, as now it standeth . . . We disputed not of matters of faith and doctrine; our desire was peace only; and our device of unity, how this lamentable and long-lasting dissension amongst the ministers, from which both atheism, sects and all ill life have received such encouragement and so dangerous increase, might at length, before help come too late, be extinguished. And for the ways of this peace, we are not at all addicted to our own inventions, but ready to embrace any fit way that may be offered; neither desire we so much that any man in regard of weakness of conscience may be exempted after parliament from obedience unto laws established, as that in this parliament such laws may be enacted, as by the relinquishment of some few ceremonies of small importance, or by any way better, a perpetual uniformity may be enjoyed and observed. Our desire hath also been to reform certain abuses crept into the ecclesiastical state, even as into the temporal: and lastly, that the land might be furnished with a learned, religious, and godly ministry, for the maintenance of whom we would have granted no small contributions, if in these (as we trust) just and religious desires we had found that correspondency from others which was expected . . .

There remains the matters of oppression or grievance in the bill of assarts . . . We have not in this present parliament sought anything against them but execution of those laws which are in force already. We demand but that justice which our princes are sworn neither to deny, delay nor sell . . .

We come lastly to the matter of wards and such other burdens (for so we acknowledge them) as to the tenures *in capite* and knight-service are incident. We cannot forget (for how were it possible?) how your Majesty, in a former most gracious speech in your gallery at Whitehall, advised us for unjust burthens to proceed against them by bill: but for such

[1] 'party' (Petyt): cp. above, p. 283.

as were just, if we desired any ease, that we should come to yourself, by way of petition, with tender of such countervailable composition in profit as for the supporting of your royal estate was requisite. According unto which your Majesty's most favourable grant and direction, we prepared a petition to your most excellent Majesty for leave to treat with your Highness touching a perpetual composition, to be raised by yearly revenue out of the lands of your subjects, for wardships and other burthens depending upon them or springing with them. Wherein we first entered into this dutiful consideration, that this prerogative of the crown, which we desire to compound for, was matter of mere profit, and not of any honour at all or princely dignity . . . This prerogative then appearing to be a mere matter of great profit, we entered into a second degree of consideration, with how great grievance and damage of the subject, to the decay of many houses and disabling of them to serve their prince and country; with how great mischief also, by occasion of many forced and ill-suited marriages; and lastly, with how great contempt and reproach of our nation in foreign countries, how small a commodity now was raised to the crown in respect of that, which with great love and joy and thankfulness, for the restitution of this original right in disposing of our children, we would be content and glad to assure unto your Majesty. We fell also from hence into a third degree of consideration, that it might be that, in regard that the original of these wardships was serving of the king in his wars against Scotland, (which cause we hope now to be at an everlasting end), . . . your Majesty, out of your most noble and gracious disposition and desire to overcome our expectation with your goodness, may be pleased to accept the offer of a perpetual and certain revenue, not only proportionable to the uttermost benefit that any of your progenitors ever reaped thereby, but also with such an overplus and large addition, as in great part to supply your Majesty's other occasions . . .

There remaineth, dread Sovereign, yet one part of our duty at this present, which faithfulness of heart, not presumption, doth press: we stand not in place to speak or do things pleasing. Our care is, and must be, to confirm the love and tie the hearts of your subjects, the commons, most firmly to

your Majesty. Herein lieth the means of our well deserving of both: there was never prince entered with greater love, with greater joy and applause of all his people. This love, this joy, let it flourish in their hearts for ever. Let no suspicion have access to their fearful thoughts, that their privileges, which they think by your Majesty should be protected, should now by sinister informations or counsel be violated or impaired; or that those, which with dutiful respects to your Majesty, speak freely for the right and good of their country, shall be oppressed or disgraced. Let your Majesty be pleased to receive public information from your Commons in parliament as to the civil estate and government; for private informations pass often by practice: the voice of the people, in the things of their knowledge, is said to be as the voice of God. And if your Majesty shall vouchsafe, at your best pleasure and leisure, to enter into your gracious consideration of our petition for the ease of these burthens, under which your whole people have of long time mourned, hoping for relief by your Majesty; then may you be assured to be possessed of their hearts, and, if of their hearts, of all they can do or have. And so we, your Majesty's most humble and loyal subjects, whose ancestors have with great loyalty, readiness and joyfulness served your famous progenitors, kings and queens of this realm, shall with like loyalty and joy, both we and our posterity, serve your Majesty and your most royal issue for ever, with our lives, lands and goods, and all other our abilities: and by all means endeavour to procure your Majesty's honour, with all plenty, tranquillity, content, joy and felicity.

Petyt, Jus Parliamentarium, ed. 1739, pp. 227–243.

5. *Speech of James I before Parliament*, 21 *March*, 1610.

... The state of monarchy is the supremest thing upon earth: for kings are not only God's lieutenants upon earth and sit upon God's throne, but even by God himself they are called gods. There be three principal similitudes that illustrate the state of monarchy: one taken out of the word of God, and the two other out of the grounds of policy and philosophy. In the Scriptures kings are called gods, and so their power after

a certain relation compared to the Divine power. Kings are also compared to fathers of families: for a king is truly *parens patriæ*, the politic father of his people. And lastly, kings are compared to the head of this microcosm of the body of man...

I conclude then this point touching the power of kings with this axiom of divinity, That as to dispute what God may do is blasphemy, ... so is it sedition in subjects to dispute what a king may do in the height of his power. But just kings will ever be willing to declare what they will do, if they will not incur the curse of God. I will not be content that my power be disputed upon; but I shall ever be willing to make the reason appear of all my doings, and rule my actions according to my laws ...

Now the second general ground whereof I am to speak concerns the matter of grievances. ... First then, I am not to find fault that you inform yourselves of the particular just grievances of the people; nay I must tell you, ye can neither be just nor faithful to me or to your countries that trust and employ you, if you do it not ... But I would wish you to be careful to avoid three things in the matter of grievances.

First, that you do not meddle with the main points of government: that is my craft: *tractent fabrilia fabri*; to meddle with that, were to lesson me. I am now an old king ...; therefore there should not be too many Phormios to teach Hannibal: I must not be taught my office.

Secondly, I would not have you meddle with such ancient rights of mine as I have received from my predecessors, possessing them *more majorum*: such things I would be sorry should be accounted for grievances. All novelties are dangerous as well in a politic as in a natural body: and therefore I would be loath to be quarrelled in my ancient rights and possessions: for that were to judge me unworthy of that which my predecessors had and left me.

And lastly I pray you, beware to exhibit for grievance anything that is established by a settled law, and whereunto (as you have already had a proof) you know I will never give a plausible answer: for it is an undutiful part in subjects to press their king, wherein they know beforehand he will refuse them. Now, if any law or statute be not convenient, let it be

amended by Parliament, but in the meantime term it not a grievance; for to be grieved with the law is to be grieved with the king, who is sworn to be the patron and maintainer thereof. But as all men are flesh and may err in the execution of laws, so may ye justly make a grievance of any abuse of the law, distinguishing wisely between the faults of the person and the thing itself. As for example, complaints may be made unto you of the High Commissioners: if so be, try the abuse and spare not to complain upon it, but say not there shall be no Commission, for that were to abridge the power that is in me . . . *Works of James I*, ed. 1616, pp. 529–537.

6. Memorial concerning the Great Contract with his Majesty touching tenures, with the dependants, purveyance, &c. delivered by the Committees of the Commons House unto the Lords [26 March, 1610[1]].

Demands in matters of tenures, &c.—The desire, in general, is to have all Knight-service turned into free and common Soccage.

In particular some tenures more properly concern the person, some the possession.

Grand Serjeanty: wherein though the tenure be taken away, yet the service of honour to be saved, and the tenure *per baroniam*, as it may concern bishops or barons or men in Parliament to be considered. Petty Serjeanty, escuage certain and uncertain, to be taken away. Castle Guard: that Castle Guard which rests in rent to be saved. All Knight-Services generally both of king and common person, to be taken away: the rents and annual services to be saved. Homage ancestral and ordinary, with the respite of them: both these to be taken away; only the coronation-homage to be saved, not in respect of tenure but of honour. Fealty: the form of doing fealty not yet resolved of. Wardship of body, marriage of the heir, of the widow: these to be taken away. Respite of fealty to be taken away.

[1] The *Lords' Journals* (II. p. 573) say that, for the reforms proposed in this memorial, 'they [the Commons] offer to the King £100,000 yearly.' The compensation was afterwards raised: cp. Gardiner, Engl. Hist. ii. 63.

Wardship and custody of lands likewise to be taken away. Premier Seisin to cease. Livery, *oustre le main*, to be taken away, so far as they concern tenures or seizure by reason of tenures, other than for escheats. Licence of alienation upon fines, feoffments, leases for life, and other conveyances: pardon of alienation, pleading *diem clausit extremum*, *mandamus*, *quae plura devenerunt*, offices *post mortem*, inquisitions *ex officio*, except for escheats: also all concealed wards *de futuro*, all intrusions, all alienations past, all bonds and covenants for performance of what tends to Knight-Service—all these to be determined. All wards now in being, or found by office, or which shall be found by office before the conclusion of this contract, and whose ancestors died within three years before: those to be saved. Relief upon Knight-Service to cease. Patentees that pay a sum in gross or pay tenths, or fee-farmers: these not to double their rent upon a relief to be paid. Escheats, heriots, suit of court, rents, workdays and such services: these all to remain. Aid to the king to remain, but limited in certain to £25,000, *cum acciderit*. Aids to common persons to cease. *Lords' Journals*, II. p. 660.

7. *Petition of the House of Commons*, 23 *May*, 1610[1].

To the King's most excellent Majesty.

Most gracious Sovereign, whereas your Majesty's most humble subjects, the Commons assembled in Parliament, have received, first by message and since by speech[2], from your Majesty a commandment of restraint from debating in Parliament your Majesty's right of imposing upon your subjects' goods exported or imported out of or into this realm, yet allowing us to examine the grievance of those impositions in regard of quantity, time and other circumstances of disproportion thereto incident; we your said humble subjects, nothing doubting but that your Majesty had no intent by that commandment to

[1] Presented to the King on May 25 (*C. J.* I. p. 432).

[2] The message, 'which was to command the House not to dispute of the King's power and prerogative in imposing upon merchandises exported or imported,' was delivered by the Speaker on May 11. The speech, containing a similar prohibition, was made at Whitehall on May 21 (*Parl. Debates, Camd. Soc.* pp. 32–36).

infringe the ancient and fundamental right of the liberty of the Parliament, in point of exact discussing of all matters concerning them and their possessions, goods and rights whatsoever (which yet we cannot but conceive to be done in effect by this commandment), do with all humble duty make this remonstrance to your Majesty.

First, we hold it an ancient, general and undoubted right of Parliament to debate freely all matters which do properly concern the subject and his right or state; which freedom of debate being once foreclosed, the essence of the liberty of Parliament is withal dissolved.

And whereas, in this case, the subject's right on the one side and your Majesty's prerogative on the other cannot possibly be severed in debate of either, we allege that your Majesty's prerogatives of that kind, concerning directly the subject's right and interest, are daily handled and discussed in all courts at Westminster, and have been ever freely debated, upon all fit occasions, both in this and all former Parliaments, without restraint; which being forbidden, it is impossible for the subject either to know or to maintain his right and propriety to his own lands and goods, though never so just and manifest.

It may further please your most excellent Majesty to understand that we have no mind to impugn, but a desire to inform ourselves of your Highness' prerogative in that point, which, if ever, is now most necessary to be known; and though it were to no other purpose, yet to satisfy the generality of your Majesty's subjects, who, finding themselves much grieved by these new impositions, do languish in much sorrow and discomfort.

These reasons, dread Sovereign, being the proper reasons of Parliament, do plead for the upholding of this our ancient right and liberty. Howbeit, seeing it hath pleased your Majesty to insist upon that judgment in the Exchequer[1], as being direction sufficient for us without further examination, upon great desire of leaving your Majesty unsatisfied in no one point of our intents and proceedings, we profess, touching that judgment, that we neither do nor will take upon us to reverse it; but our desire is to know the reasons whereupon the same was grounded

[1] In Bates' case; see below, p. 340.

and the rather, for that a general conceit is had that the reasons of that judgment may be extended much farther, even to the utter ruin of the ancient liberty of this kingdom, and of your subjects' right of propriety of their lands and goods.

Then for the judgment itself, being the first and last that was ever given in that kind, for ought appearing unto us, and being only in one case and against one man, it can bind in law no other but that person, and is also reversible by writ of error, granted heretofore by Act of Parliament, and neither he nor any subject is debarred by it from trying his right, in the same or like case, in any of your Majesty's Courts of Record at Westminster . . .

We therefore, your Highness' loyal and dutiful Commons, not swerving from the approved steps of our ancestors, most humbly and instantly beseech your gracious Majesty that without offence to the same we may, according to the undoubted right and liberty of Parliament, proceed in our intended course of a full examination of these new impositions; that so we may cheerfully pass on to your Majesty's business, from which this stop hath by diversion so long withheld us. . . .

Commons' Journals, I. p. 431.

8. *Propositions touching Purveyance*[1].

Die Martis 26 Junii, 1610. . . .

VI. All purveyance and takings for his Majesty, the Queen, the Prince, and all other the king's children, and for all offices, officers, courts, councils and societies whatsoever, to be utterly taken away, as well purveyance and takings for household, stable, navy, servants, labourers, and all other provisions, as also for carts, horses and carriages, both by land and water; and generally all purveyances and takings, for whomsoever or whatsoever, of what name or nature soever, to be for ever extinguished. The composition for the same to be all dissolved and released. The clerk of the market and all other to be disabled for setting any prices. The power and prerogative of

[1] 'Seven propositions of ease,' of which this is No. 6, were discussed in connexion with the Great Contract on June 22 and 25, passed on June 26, and presented to the King on June 27 (*C. J.* I. pp. 443–444).

pre-emption to be determined, not intending hereby the pre-emption of tin. What regard shall be had of the merchant-stranger in this point, to be left to further consideration.

Lords' Journals, II. p. 660.

9. Memorial concerning the Great Contract with his Majesty touching tenures, with the dependents, purveyance, &c. conceived by direction of the Lords of the Higher House of Parliament. [21 July, 1610.]

Whereas the knights, citizens and burgesses of the Lower House of Parliament have this day, by their committees, delivered unto the Lords Committees of this House a Memorial by them conceived and put in writing, containing certain articles concerning the Great Contract with his Majesty, which during this session hath long and often been in speech and debate between their lordships and them, as well on his Majesty's behalf as for the interest of their lordships and of the said knights, citizens and burgesses; by which Contract they are tied to assure unto his Majesty, his heirs and successors, the sum of £200,000 sterling in yearly revenue, in satisfaction of the great yearly profits which his Majesty hath or may make, as well in respect of the wardships of the bodies and lands of his subjects and all other incidents to tenures, as of the benefits arising by post-fines, defective titles, assarts and many other immunities and privileges, together with the extinguishing of purveyance, (all tending to the profit and ease of his Majesty's subjects): . . . and forasmuch as the knights and burgesses of the Lower House have also acknowledged (and that most truly) that they did always understand themselves bound to limit themselves so carefully in all things which they have sought for or shall do, not being particularly expressed at the time that they did accept of the price, as not to demand or expect any condition whereby his Majesty should lose either honour or profit as aforesaid: the Lords also, who are likewise in their own particular estates and possessions (beside the care of the public good) no less interested in the said Great Contract than they, and by their eminent places and degrees are more strictly bound to take care of those things which do particularly

concern the honour and revenue of the Crown than others are, have now, upon good advice and deliberation, thought it fit and necessary not only to acknowledge their personal consent to the substantial parts of this Contract, but (with the privity of his Majesty as an argument of his consent) given order likewise for an entry to be made of the same Memorial, in manner as is aforesaid . . . *Lords' Journals*, II. p. 662.

10. *Petition of the House of Commons, July*, 1610[1].

Most gracious and dread Sovereign . . . We do in all humility present at the feet of your excellent Majesty ourselves and our desires, full of confidence in the assurances of your religious mind and princely disposition, that you will be graciously pleased to give life and effect to these our petitions . . .

I. Whereas good and provident laws have been made for the maintenance of God's true religion and safety of your Majesty's royal person, issue and estate, against Jesuits, Seminary Priests and Popish recusants; . . . yet for that the laws are not executed against the priests, who are the corrupters of the people in religion and loyalty, and many recusants have already compounded, . . . Your Majesty therefore would be pleased, at the humble suit of your Commons in this present Parliament assembled, . . . to lay your royal command upon all your ministers of justice, both ecclesiastical and civil, to see the laws made against Jesuits, Seminary Priests and recusants . . . to be duly and exactly executed without dread or delay; and that your Majesty would be pleased likewise to take into your own hands the penalties due for recusancy, and that the same be not converted to the private gain of some, to your infinite loss, the emboldening of the Papists, and decay of true religion.

II. Whereas also divers painful and learned pastors, that have long travelled in the work of the ministry with good fruit and blessing of their labours, who were ever ready to perform the legal subscription appointed by the Statute of the 13th of Elizabeth, which only concerneth the confession of the

[1] It appears uncertain when this petition was presented. It was answered by the King, along with the following grievances (see p. 202), on 23 July, 1610 (*L. J.* II. p. 658: *Parl. Debates, Camd. Soc.* p. 123).

true Christian faith and doctrine of the Sacraments[1], yet, for not conforming in points of ceremonies and refusing the subscription directed by the late Canons, have been removed from their ecclesiastical livings, being their freehold, and debarred from all means of maintenance; . . . we therefore most humbly beseech your Majesty would be graciously pleased, that such deprived and silenced ministers may, by licence or permission of the reverend fathers, in their several dioceses instruct and preach unto their people, in such parishes and places where they may be employed; so as they apply themselves in their ministry to wholesome doctrine and exhortation and live quietly and peaceably in their callings, and shall not by writing or preaching impugn things established by public authority.

III. Whereas likewise through plurality of benefices and toleration of non-residency in many who possess not the meanest of livings, with cure of souls, the people in divers places want instruction; . . . and where pluralists, heaping up many livings into one hand, do by that means keep divers learned men from maintenance, to the discouragement of students and the hindrance of learning, and the non-residents . . . do leave the people as a prey to the popish seducers: it might therefore please your most excellent Majesty, for remedy of those evils in the Church, to provide that dispensations for plurality of benefices with cure of souls may be prohibited, and that the toleration of non-residency may be restrained . . .

IV. And forasmuch as excommunication is the heaviest censure for the most grievous offences which the Church doth retain, yet [is] exercised and inflicted upon an incredible number of the common people by the subordinate officers of the jurisdiction ecclesiastical, most commonly for very small causes, grounded upon the sole information of a base apparitor . . .

Wherefore your Majesty's most dutiful Commons most humbly beseech your Highness that some due and fit reformation may be had in the premises.

Petyt, Jus Parliamentarium, pp. 316–318.

[1] 13 Eliz. 12, § 1.

11. *Petition of the House of Commons, 7 July, 1610.*

To the King's most excellent Majesty.

Most gracious Sovereign, your Majesty's most humble Commons assembled in Parliament, being moved as well out of their duty and zeal to your Majesty, as out of the sense of just grief wherewith your loving subjects are generally through the whole realm at this time possessed, because they perceive their common and ancient right and liberty to be much declined and infringed in these late years, do with all duty and humility present these our just complaints thereof to your gracious view, most instantly craving justice therein and due redress . . .

[I.] The policy and constitution of this your kingdom appropriates unto the kings of this realm, with the assent of the Parliament, as well the sovereign power of making laws as that of taxing or imposing upon the subjects' goods or merchandizes, wherein they have justly such a propriety as may not without their consent be altered or changed . . .

We therefore, your Majesty's most humble Commons assembled in Parliament, following the example of this worthy care of our ancestors and out of a duty to those for whom we serve, finding that your Majesty, without advice or consent of Parliament, hath lately in time of peace set both greater impositions and far more in number than any your noble ancestors did ever in time of war, have with all humility presumed to present this most just and necessary petition unto your Majesty, That all impositions set without the assent of Parliament may be quite abolished and taken away; and that your Majesty, in imitation likewise of your noble progenitors, will be pleased, That a law may be made during this Session of Parliament, to declare, that all impositions set or to be set upon your people, their goods or merchandises, save only by common assent in Parliament, are and shall be void . . .

[II.] Whereas by the Statute 1 Eliz. cap. 1, intituled, an Act restoring to the Crown the ancient jurisdiction over the state ecclesiastical, &c., power was given to the Queen and her successors to constitute and make a commission in causes ecclesiastical; the said Act is found to be inconvenient and of dangerous extent in divers respects.

First, for that it enableth the making of such a commission as well to any one subject born as to more.

Secondly, for that, whereas by the intention and words of the Statute ecclesiastical jurisdiction is restored to the Crown, and your Highness by that statute enabled to give only such power ecclesiastical to the said commissioners, yet under colour of some words in that statute, where the commissioners are authorised to execute their commission according to the tenour and effect of your Highness' letters patents and by letters patents grounded thereupon, the said commissioners do fine and imprison and exercise other authority not belonging to the ecclesiastical jurisdiction restored by that statute: which we conceive to be a great wrong to the subject . . .

Thirdly, for by the statute the king and his successors (however your Majesty hath been pleased out of your gracious disposition otherwise to order) may make and direct such commission into all the counties and dioceses, yea, into every parish of England; and thereby all causes may be taken from jurisdiction of bishops, chancellors and archdeacons, and laymen solely enabled to excommunicate and exercise all other censures spiritual.

Fourthly, that every petty offence pertaining to spiritual jurisdiction is, by colour of the said words and letters patents grounded thereupon, made subject to excommunication and punishment by that strange and exorbitant power and commission, whereby the least offenders, not committing anything of any enormous or high nature, may be drawn from the most remote places of the kingdom to London or York; which is very grievous and inconvenient.

Fifthly, for that limit touching causes subject to this commission being only with these words, viz. 'such as pertain to spiritual or ecclesiastical jurisdiction,' it is very hard to know what matters or offences are included in that number . . .

And whereas upon the same statute a commission ecclesiastical is made, therein is grievance apprehended thus:

(1) For that thereby the same men have both spiritual and temporal jurisdiction, and may both force the party by oath to accuse himself of any offence and also enquire thereof by a jury, and lastly may inflict for the same offence at the same

time and by one and the same sentence both a spiritual and temporal penalty[1].

(2) Whereas upon sentences of deprivation or other spiritual censures given by force of ordinary jurisdiction an appeal lieth for the party aggrieved, that is here excluded by express words of the commission; also here is to be a trial by jury, yet no remedy by traverse or attaint; neither can a man have any writ of error, though a judgment or sentence be given against him, amounting to the taking away of all his goods and imprisoning of him during life, yea to the adjudging him in case of *praemunire*, whereby his lands are forfeited and he out of the protection of the law.

(3) That whereas penal laws and offences against the same cannot be determined in other courts or by other persons than by those trusted by Parliament with the execution thereof, yet the execution of many such statutes (divers whereof were made since the first of Elizabeth) are commended and committed to these Commissioners Ecclesiastical, who are either to inflict the punishment contained in the statute, being *praemunire* and of other high nature, and so enforce a man upon his own oath to accuse and expose himself to those punishments, or else to inflict other temporal punishments at their pleasure; and yet besides and after that done, the party shall be subject, in the courts mentioned in the acts, to punishment by the same acts appointed and inflicted: which we think very unreasonable.

(4) That the commission giveth authority to enforce men called into question to enter into recognizance, not only for appearance from time to time but also for performance of whatsoever shall be by the commissioners ordered: and also that it giveth power to enjoin parties, defendant or accused, to pay such fees to the ministers of the court as by the commissioners shall be thought fit.

And touching the execution of the commission, it is found grievous these ways among other:

(1) For that laymen are by the Commissioners punished for speaking (otherwise than in judicial places and courses) of the simony and other misdemeanours of the spiritual men, though

[1] 'jurisdiction' (Petyt).

the thing spoken be true and the speech tending to the inducing of some condign punishment.

(2) In that these commissioners usually appoint and allot to women discontented at and unwilling to live with their husbands such portion and allowance for present maintenance, as to them shall seem meet, to the great encouragement to wives to be disobedient and contemptuous against their husbands.

(3) In that their pursuivants and other ministers, employed in the apprehension of suspected offenders in anything spiritual and in the searching for any supposed scandalous books, use to break open men's houses, closets and desks, rifling all corners and secret custodies, as in cases of high treason or suspicion thereof.

All which premises, amongst other things, considered, your Majesty's most loyal and dutiful Commons in all humbleness beseech you that, for the easing of them as well from the present grievance as from the fear and possibility of greater in times future, your Highness would vouchsafe your royal assent and allowance to and for the ratifying of the said statute and the reducing thereof, and consequently of the said commission, to reasonable and convenient limits, by some Act to be passed in the present session of Parliament.

[III.] Amongst many other points of happiness and freedom, which your Majesty's subjects of this kingdom have enjoyed under your royal progenitors, kings and queens of this realm, there is none which they have accounted more dear and precious than this, to be guided and governed by certain rule of law, which giveth both to the head and members that which of right belongeth to them, and not by any uncertain or arbitrary form of Government . . . Out of this root hath grown the indubitable right of the people of this kingdom, not to be made subject to any punishment that shall extend to their lives, lands, bodies or goods, other than such as are ordained by the common laws of this land or the statutes made by their common consent in Parliament.

Nevertheless it is apparent, both that proclamations have been of late years much more frequent than heretofore, and that they are extended not only to the liberty but also to the goods, inheritances and livelihood of men; some of them

tending to alter some points of the law and make them new: other some made shortly after a session of parliament, for matter directly rejected in the same session: others appointing punishments to be inflicted before lawful trial and conviction: some containing penalties in form of penal statutes: some referring the punishment of offenders to the courts of arbitrary discretion, which have laid heavy and grievous censures upon the delinquents: some, as the proclamation for starch, accompanied with letters commanding enquiry to be made against the transgressors at the quarter sessions: ... and some vouching former proclamations, to countenance and warrant the latter ... By reason whereof there is a general fear conceived and spread amongst your Majesty's people, that proclamations will by degrees grow up and increase to the strength and nature of laws: whereby not only that ancient happiness, freedom, will be much blemished if not quite taken away, which their ancestors have so long enjoyed, but the same may also in process of time bring a new form of arbitrary government upon the realm ...

We therefore, your Majesty's humble subjects, the Commons in this Parliament assembled, taking these matters into our consideration and weighing how much it doth concern your Majesty, both in honour and safety, that such impressions should not be enforced to settle in your subjects' minds, have thought it to appertain to our duties, as well toward your Majesty as to those that have trusted and sent us to their service, to present unto your Majesty's view these fears and griefs of your people, and to become humble suitors unto your Majesty, that thenceforth no fine or forfeiture of goods or other pecuniary or corporal punishment may be inflicted upon your subjects (other than restraint of liberty, which we also humbly beseech may be but upon urgent necessity, and to continue but till other order may be taken by course of law), unless they shall offend against some law or statute of this realm in force at the time of their offence committed: and for greater assurance and comfort of your people, that it will please your Majesty to declare your royal pleasure to that purpose, either by some law to be made in this session of parliament or by some such other course (whereof your people may take knowledge), as to your princely wisdom shall seem most convenient ...

[IV.] Forasmuch as the exercise of authority over the counties of Gloucester, Hereford, Wigorn and Salop by the President and Council of Wales, by way of instructions upon a Pretext of statute[1] made in the thirty-fourth year of the reign of King Henry VIII, is conceived not to be warranted by that or any other law of this realm of England . . . : it is therefore the most humble petition of the Commons in this present parliament assembled, that your most excellent Majesty will also be pleased to command that the judges may deliver their opinion . . . concerning the right of the aforesaid jurisdiction over those four counties, by force of that statute: . . . and that if the said jurisdiction over these four counties shall appear to your Majesty by the opinion of the judges or otherwise not to be warranted by law, that then your Majesty will be pleased, out of your most princely and gracious favour towards all your loyal, dutiful subjects, to order the ceasing of the said jurisdiction over those counties . . .

Petyt, Jus Parliamentarium, pp. 319–331.

12. *Petition of the House of Commons*, 3 *Dec.*, 1621[2].

Most gracious and dread Sovereign: We, your Majesty's most humble and loyal subjects, the knights, citizens and burgesses now assembled in parliament, . . . finding how ill your Majesty's goodness hath been requited by princes of different religion, who even in time of treaty have taken opportunities to advance their own ends, tending to the subversion of religion, and disadvantage of your affairs and the estate of your children; by reason whereof your ill-affected subjects at home, the popish recusants, have taken too much encouragement, and are dangerously increased in their number and in their insolencies, we cannot but be sensible thereof, and therefore humbly represent what we conceive to be the causes of so great and growing mischiefs, and what be the remedies.

1. The vigilancy and ambition of the Pope of Rome and his dearest son; the one aiming at as large a temporal monarchy, as the other at a spiritual supremacy. 2. The devilish positions

[1] 34 and 35 H. VIII. 26.

[2] This petition was passed by the House on 3 Dec., 1621 (*C. J.* I. p. 655), but stopped by the following letter from the King (p. 310).

and doctrines whereon popery is built and taught with authority to their followers, for the advancement of their temporal ends. 3. The distressed and miserable estate of the professors of our religion in foreign parts. 4. The disastrous accidents to your Majesty's children abroad . . . 5. The strange confederacy of the princes of the popish religion . . . 6. The great and many armies raised and maintained at the charge of the king of Spain, the chief of that league. 7. The expectation of the popish recusants of the match with Spain, and feeding themselves with great hopes of the consequences thereof. 8. The interposing of foreign princes and their agents in the behalf of popish recusants . . . 9. Their open and usual resort to the houses and, which is worse, to the chapels of foreign ambassadors. 10. Their more than usual concourse to the city, and their frequent conventicles and conferences there. 11. The education of their children in many several seminaries and houses of their religion in foreign parts, appropriated to the English fugitives. 12. The grants of their just forfeitures . . . transferred or compounded for at such mean rates, as will amount to little less than a toleration. 13. The licentious printing and dispersing of popish and seditious books, even in the time of parliament. 14. The swarms of priests and Jesuits, the common incendiaries of all Christendom, dispersed in all parts of your kingdom.

And from these causes, as bitter roots, we humbly offer to your Majesty that we foresee and fear there will necessarily follow very dangerous effects both to church and state. For, 1. The popish religion is incompatible with ours, in respect of their positions. 2. It draweth with it an unavoidable dependency on foreign princes. 3. It openeth too wide a gap for popularity to any who shall draw too great a party. 4. It hath a restless spirit, and will strive by these gradations: if it once get but a connivance, it will press for a toleration; if that should be obtained, they must have an equality; from thence they will aspire to superiority, and will never rest till they get a subversion of the true religion.

The remedies against these growing evils, which in all humility we offer unto your most excellent Majesty, are these. 1. That, seeing this inevitable necessity is fallen upon your

Majesty which no wisdom or providence of a peaceable and pious king can avoid, your Majesty would not omit this just occasion, speedily and effectually to take your sword into your hand. 2. That, once undertaken upon so honourable and just grounds, your Majesty would resolve to pursue and more publicly avow the aiding of those of our religion in foreign parts; which doubtless would reunite the princes and states of the union, by these disasters disheartened and disbanded. 3. That your Majesty would propose to yourself to manage this war with the best advantage, by a diversion or otherwise, as in your deep judgment shall be found fittest; and not to rest upon a war in these parts only, which will consume your treasure and discourage your people. 4. That the bent of this war and point of your sword may be against that prince (whatsoever opinion of potency he hath), whose armies and treasures have first diverted and since maintained the war in the Palatinate. 5. That, for securing of our peace at home, your Majesty would be pleased . . . to put in execution, by the care of choice commissioners to be thereunto especially appointed, the laws already and hereafter to be made for preventing of dangers by popish recusants and their wonted evasions. 6. That, to frustrate their hopes for a future age, our most noble prince may be timely and happily married to one of our own religion. 7. That the children of the nobility and gentry of this kingdom and of others ill-affected and suspected in their religion, now beyond the seas, may be forthwith called home by your means, and at the charge of their parents or governors. 8. That the children of popish recusants or such whose wives are popish recusants be brought up, during their minority, with protestant schoolmasters and teachers, who may sow in their tender years the seeds of true religion. 9. That your Majesty will be pleased speedily to revoke all former licences for such children and youth to travel beyond the seas, and not grant any such licence hereafter. 10. That your Majesty's learned council may receive commandment from your Highness carefully to look into former grants of recusants' lands, and to avoid them if by law they can; and that your Majesty will stay your hand from passing any such grants hereafter.

This is the sum and effect of our humble declaration, which

we (no ways intending to press upon your Majesty's undoubted and regal prerogative) do with the fulness of our duty and obedience humbly submit to your most princely consideration . . *Rushworth*, I. p. 40.

13. *The King's letter to the House of Commons*, 3 *Dec.*, 1621[1].

To our trusty and well-beloved Sir Thomas Richardson, Knight, Speaker of the House of Commons.

Mr Speaker: We have heard by divers reports, to our great grief, that our distance from the Houses of Parliament, caused by our indisposition of health, hath emboldened some fiery and popular spirits of some of the House of Commons to argue and debate publicly of matters far above their reach and capacity, tending to our high dishonour and breach of prerogative royal. These are therefore to command you to make known in our name unto the House, that none therein shall presume henceforth to meddle with anything concerning our government or deep matters of state, and namely, not to deal with our dearest son's match with the daughter of Spain, nor to touch the honour of that king or any other our friends and confederates: and also not to meddle with any men's particulars, which have their due motion in our ordinary courts of justice.

And whereas we hear that they have sent a message to Sir Edwin Sandys, to know the reasons of his late restraint[2], you shall in our name resolve them, that it was not for any misdemeanour of his in parliament: but, to put them out of doubt of any question of that nature that may arise among them hereafter, you shall resolve them in our name, That we think ourself very free and able to punish any man's misdemeanours in parliament as well during their sitting as after; which we mean not to spare hereafter, upon any occasion of any man's insolent behaviour there that shall be ministered unto us. And, if they have already touched any of these points which we have forbidden, in any petition of theirs which is to be sent unto us, it is our pleasure that you shall tell them, That,

[1] Read in the House on Dec. 4 (*C. J.* I. p. 658).
[2] He was imprisoned (with others) on June 16, and released on July 16.

except they reform it before it comes to our hands, we will not deign the hearing nor answering of it.

Dated at Newmarket, 3 December, 1621.

Rushworth, I. p. 43.

14. *Petition of the House of Commons, 9 Dec., 1621*[1].

Most dread and gracious Sovereign: We your most humble and loyal subjects, the knights, citizens and burgesses assembled in the Commons House of Parliament, . . . in all humbleness beseech your most excellent Majesty that the loyalty and dutifulness of as faithful and loving subjects as ever served or lived under a gracious sovereign may not undeservedly suffer by the misinformation of partial and uncertain reports, which are ever unfaithful intelligencers: but that your Majesty would, in the clearness of your own judgment, first vouchsafe to understand from ourselves, and not from others, what our humble Declaration and Petition, resolved upon by the universal voice of the House, and proposed, with your gracious favour, to be presented unto your sacred Majesty, doth contain. [A summary of the petition (No. 12, above) follows.]

This being the effect of what we had formerly resolved upon, and these the occasions and reasons inducing the same, our humble suit to your Majesty and confidence is, That your Majesty will be graciously pleased to receive, at the hands of these our messengers, our former humble Declaration and Petition, and vouchsafe to read and favourably to interpret the same: . . . and whereas your Majesty, by the general words of your letter, seemeth to restrain us from intermeddling with matters of government or particulars which have their motion in the courts of justice, the generality of which words, in the largeness of the extent thereof (as we hope beyond your Majesty's intention), might involve those things which are the proper subjects of parliamentary occasions and discourse: and whereas your Majesty doth seem to abridge us of the ancient liberty of parliament for freedom of speech, jurisdiction and just censure of the House, and other proceedings there (where-

[1] Debated on Dec. 5, 6, and 7; passed by the House on Dec. 8 (*C. J.* I. pp. 658–661), and presented to the King on Dec. 10 (*ibid.* p. 663).

in we trust in God we shall never transgress the bounds of loyal and dutiful subjects), a liberty which, we assure ourselves, so wise and so just a king will not infringe, the same being our ancient and undoubted right and an inheritance received from our ancestors, without which we cannot freely debate nor clearly discern of things in question before us, nor truly inform your Majesty; ... we are therefore now again enforced, in all humbleness, to pray your Majesty to allow the same, and thereby to take away the doubts and scruples your Majesty's late letter to our Speaker hath wrought upon us ...

Rushworth, I. p. 44.

15. *The King's answer*, 10 *Dec.*, 1621[1].

...Now whereas, in the very beginning of this your apology, you tax us, in fair terms, of trusting uncertain reports and partial informations concerning your proceedings, we wish you to remember that we are an old and experienced king, needing no such lessons, being, in our conscience, freest of any king alive from hearing or trusting idle reports; which so many of your House as are nearest us can bear witness unto you, if you would give as good ear to them as you do to some tribunitial orators among you ...

In the body of your petition, you usurp upon our prerogative royal and meddle with things far above your reach, and then in the conclusion you protest the contrary; as if a robber would take a man's purse and then protest he meant not to rob him... And touching your excuse of not determining anything concerning the match of our dearest son, but only to tell your opinion and lay it down at our feet, first we desire to know how you could have presumed to determine in that point without committing of high treason? ... And as to your request that we would now receive your former petition, we wonder what could make you presume that we would receive it, whereas in our former letter we plainly declared the contrary unto you. And therefore we have justly rejected that suit of yours, for what have you left unattempted in the highest points of sovereignty in that petition of yours, except the striking of coin? ... These

[1] Given on Dec. 10, and read in the House on Dec. 14 (*C. J.* I. p. 663).

are unfit things to be handled in parliament, except your king should require it of you: . . . and therefore, *ne sutor ultra crepidam* . . .

And although we cannot allow of the style, calling it your ancient and undoubted right and inheritance, but could rather have wished that ye had said that your privileges were derived from the grace and permission of our ancestors and us (for most of them grow from precedents, which shows rather a toleration than inheritance), yet we are pleased to give you our royal assurance, that as long as you contain yourself within the limits of your duty, we will be as careful to maintain and preserve your lawful liberties and privileges, as ever any of our predecessors were, nay, as to preserve our own royal prerogative[1]; so as your House shall only have need to beware to trench upon the prerogative of the crown; which would enforce us, or any just king, to retrench them of their privileges, that would pare his prerogative and flowers of the crown: but of this, we hope, there shall never be cause given.

Dated at Newmarket, 11 Dec., 1621.

Rushworth, I. p. 46.

16. *Protestation of the House of Commons*, 18 *Dec.*, 1621[2].

The Commons now assembled in parliament, being justly occasioned thereunto, concerning sundry liberties, franchises and privileges of parliament amongst others here mentioned, do make this protestation following: That the liberties, franchises, privileges and jurisdictions of parliament are the ancient and undoubted birthright and inheritance of the subjects of England; and that the arduous and urgent affairs concerning the king,

[1] In another letter, dated Dec. 16, read in the House on Dec. 17, the King says, 'The plain truth is, that we cannot with patience endure our subjects to use such antimonarchical words to us concerning their liberties, except they had subjoined that they were granted unto them by the grace and favour of our predecessors' (*Parl. Hist.* p. 1350).

[2] '18 Dec., 1621, p.m. Mr Speaker taking his chair, Mr Sergeant Ashley, from the Grand Committee, presenteth to the House a draft of the Protestation concerning the privileges of the House. The Protestation read several times and, upon question, allowed and ordered to be presently entered of record in the journal of the House' (*C. J.* I. p. 668). 'In the margin is written, "King James, in Council, with his own hand rent out this Protestation"' (*ibid.* note).

state and defence of the realm, and of the church of England, and the maintenance and making of laws, and redress of mischiefs and grievances which daily happen within this realm, are proper subjects and matter of counsel and debate in parliament: and that in the handling and proceeding of those businesses every member of the House of Parliament hath and of right ought to have freedom of speech, to propound, treat, reason and bring to conclusion the same: and that the Commons in parliament have like liberty and freedom to treat of these matters in such order as in their judgments shall seem fittest: and that every member of the said House hath like freedom from all impeachment, imprisonment and molestation (other than by censure of the House itself) for or concerning any speaking, reasoning or declaring of any matter or matters touching the parliament or parliament business; and that, if any of the said members be complained of and questioned for anything done or said in parliament, the same is to be shewed to the king by the advice and assent of all the Commons assembled in Parliament, before the king give credence to any private information. *Rushworth*, I. p. 53.

17. *The King's Proclamation on dissolving Parliament, 6 Jan. 1622.*

A Proclamation for dissolving this present Parliament.

Albeit the assembling, continuing and dissolving of parliament be a prerogative so peculiarly belonging to our imperial crown, and the times and seasons thereof so absolutely in our own power, that we need not give account thereof unto any; yet according to our continual custom to make our good subjects acquainted with the reasons of all our public resolutions and actions, we have thought it expedient at this time to declare not only our pleasure and resolution therein, grounded upon mature deliberation, with the advice and uniform consent of our whole privy council, but therewith also to note some special proceedings moving us to this resolution . . .

This Parliament was by us called, as for making good and profitable laws, so more especially, in this time of miserable distraction throughout Christendom, for the better settling of

peace and religion and restoring our children to their ancient and lawful patrimony... This parliament, beginning in January last, proceeded some months with such harmony between us and our people as cannot be parallelled by any former time; for as the House of Commons at the first, both in the manner of their supply and otherwise, shewed greater love and more respect than ever any House of Commons did to us or, as we think, to any king before us; so we upon all their complaints have afforded them such memorable and rare examples of justice[1] as many ages past cannot shew the like; ... and although, after their first recess at Easter, we found that they mis-spent a great deal of time, ... yet we gave them time and scope for their parliamentary proceedings and prolonged the session to an unusual length ...

But during the time of this long recess[2] having to our great charges mediated with the Emperor by the means of our ambassador, the Lord Digby, and having found those hopes to fail which we had to prevail by treaty, we in confidence of the assistance of our people, thus freely promised and protested in parliament, did ... reassemble our parliament the 20th day of November last, and made known unto them the true state and necessity of our children's affairs; ... wherein, howbeit we are well satisfied of the good inclination of most part of our House of Commons, testified by their ready assent to the speedy payment of a subsidy newly to be granted, yet, upon this occasion, some particular members of that House took such inordinate liberty, not only to treat of our high prerogatives and of sundry things that, without our special direction, were no fit subjects to be treated of in parliament, but also to speak with less respect of foreign princes, our allies, than was fit for any subject to do of any anointed king, though in enmity and hostility with us. And when, upon this occasion, we used some reprehension touching those miscarriages, requiring them not to proceed but in such things as were within the capacity of that House according to the continual custom of our predecessors, then, by the means of some evil-affected and discontented persons, such heat and distemper was raised in the House, that, albeit them-

[1] For instance, in the cases of Bacon, Michell, Mompesson, &c.
[2] From June to November, 1621.

selves had sued unto us for a session and for a general pardon, unto both which at their earnest suit we assented, yet after this fire kindled they rejected both, and setting apart all businesses of consequence and weight, notwithstanding our admonition and earnest pressing them to go forward, they either sat as silent or spent the time in disputing of privileges, descanting upon the words and syllables of our letters and messages; ... and, notwithstanding the sincerity of our protestations not to invade their privileges, yet, by persuasion of such as had been the cause of all these distempers, they fall to carve for themselves; and pretending, causelessly, to be occasioned thereunto, in an unseasonable hour of the day and a very thin house, contrary to their own customs in all matters of weight, conclude and enter a protestation for their liberties, in such ambiguous and general words as might serve for future times to invade most of our inseparable rights and prerogative annexed to our imperial crown, whereof, not only in the times of other our progenitors but in the blessed reign of our late predecessor, that renowned queen Elizabeth, we found our crown actually possessed; an usurpation that the majesty of a king can by no means endure. By all which may appear that, howsoever in the general proceedings of that House there are many footsteps of loving and well-affected duty towards us, yet some ill-tempered spirits have sowed tares among the corn, and thereby frustrated the hope of that plentiful and good harvest, which might have multiplied the wealth and welfare of this whole land, and by their cunning diversions have imposed upon us a necessity of discontinuing this present parliament without putting unto it the name or period of a session.

And therefore, whereas the said assembly of parliament was by our commission adjourned till the 8th day of February now next ensuing, we, minding not to continue the same any longer, ... have thought fit to signify this our resolution, with the reasons thereof, unto all our subjects inhabiting in all parts of this realm; willing and requiring the said prelates, noblemen and states, and also the said knights, citizens and burgesses, and all others to whom in this case it shall appertain, that they forbear to attend at the day and place prefixed by the said adjournment ...

And albeit we are at this time enforced to break off this convention of parliament, yet our will and desire is that all our subjects should take notice, for avoiding of all sinister suspicions and jealousies, that our intent and full resolution is to govern our people in the same manner as our progenitors and predecessors, kings and queens of this realm, of best government, have heretofore done; . . . and that we shall be as glad to lay hold on the first occasion in due and convenient time, which we hope shall not be long, to call and assemble our parliament with confidence of the true and hearty love and affection of our subjects, as either we or any of our progenitors have at any time heretofore.

[Dated at Westminster, Jan. 6.]

Rymer's Fœdera, XVII. p. 344.

18. *Address of both Houses to the King*, 8 *March*, 1624[1].

May it please your most excellent Majesty: We are come unto you, employed from your most faithful subjects and servants, the Lords and Commons assembled in this present parliament. And first, they and we do give most humble and hearty thanks to Almighty God, that, out of his gracious goodness, he hath been pleased, now at last, to dispel that cloud and mists, which for so many years hath dimmed the eyes of a great part of Christendom in that business whereof we do now consult. And secondly, we acknowledge ourselves most bound unto your Majesty, that you have been pleased to require the humble advice of us your obedient subjects in a case so important as this, which hitherto dependeth between your Majesty and the king of Spain; which we jointly offer from both Houses, no one person therein dissenting or disagreeing from the rest. And that is, That upon mature consideration, and weighing many particulars of sundry natures, finding so much want of sincerity in all their proceedings, we, *super totam materiam*, present this our humble advice unto your Majesty; That the treaties, both for the marriage and the Palatinate, may not any longer be continued with the honour of your Majesty, the safety of your people, the welfare

[1] Approved by the House of Commons on March 5 (*C. J.* I. p. 729), and presented to the King the same day (*L. J.* III. p. 250).

of your children and posterity, as also the assurance of your ancient allies and confederates. *Lords' Journals*, III. p. 250.

19. *Address of both Houses to the King, 22 March, 1624*[1].

Most gracious Sovereign,

We your Majesty's most humble and loyal subjects, the Lords and Commons in this present parliament assembled, . . . most ready and willing to give your Majesty and the whole world an ample testimony of our sincere and dutiful intentions herein, have upon mature advice and deliberation, as well of the weight and importance of this great affair, as of the present estate of this your kingdom (the weal and safety whereof is, in our judgments, apparently threatened, if your Majesty's resolution for the dissolving of the treaties now in question be longer deferred, and that provision for the defence of your realm and aid of your friends and allies be not seasonably made), with a cheerful consent of all the Commons, no one dissenting, and with a full and cheerful consent of us the Lords, resolved; That, upon your Majesty's public declaration of the utter dissolution and discharge of the two treaties of the marriage and Palatinate, in pursuit of our advice therein, and towards the support of that war which is likely to ensue, and more particularly for those four points proposed by your Majesty, namely for the defence of this realm, the securing of Ireland, the assistance of your neighbours the states of the United Provinces and others your Majesty's friends and allies, and for the setting forth of your royal navy, we will grant for the present the greatest aid which was ever granted in parliament to be levied in so short time, that is to say, three entire subsidies and three fifteenths, to be all paid within the compass of one whole year after your Majesty shall be pleased to make the said declaration; the money to be paid into the hands and expended by the direction of such committees or commissioners, as hereafter shall be agreed upon in this present session of parliament . . . *Lords' Journals*, III. p. 275.

[1] Approved by the Houses on March 22, and presented to the King on March 23 (*L. J.* III. pp. 275 ff., and *C. J.* I. pp. 746 ff.).

20. *Address of both Houses to the King, 10 April, 1624.*

May it please your most excellent Majesty: It having pleased your Majesty, upon our humble suit and advice, to dissolve both the treaties, to our great joy and comfort, we, your Majesty's most faithful and loyal subjects, the Lords and Commons assembled in parliament, do in all humbleness offer unto your sacred Majesty these two petitions following:

First, That for the more safety of your realms and better keeping your subjects in their due obedience and other important reasons of state, your Majesty will be pleased, by some such course as your Majesty shall think fit, to give present order, That all the laws be put in due execution, which have been made and do stand in force against Jesuits, seminary priests and all others that have taken orders by authority derived from the see of Rome, and generally against all Popish recusants; and as for disarming, that it may be according to the laws and according to former acts and directions of state in the like case: and yet, that it may appear to all the world, the favour and clemency your Majesty useth towards all your subjects of what condition soever, and to the intent the Jesuits and priests now in the realm may not pretend to be surprised, that a speedy and certain day may be prefixed by your Majesty's proclamation, before which day they shall depart out of this realm and all other your Highness's dominions; and neither they nor any other to return or come hither again, upon peril of the severest penalties of the laws now in force against them; and that all your Majesty's subjects may thereby also be admonished not to receive, entertain, comfort or conceal any of them, upon the penalties and forfeitures which by the laws may be imposed upon them.

Secondly, Seeing we are thus happily delivered from that danger, to which those treaties (now dissolved) and that use which your ill-affected subjects made thereof would certainly have drawn upon us, and yet cannot but foresee and fear lest the like may hereafter happen, which would inevitably bring such peril unto your Majesty's kingdoms, we are most humble suitors to your gracious Majesty to secure the hearts of your good subjects by the engagement of your royal word unto them,

That, upon no occasion of marriage or treaty or other request in that behalf from any foreign prince or state whatsoever, you will take away or slacken the execution of your laws against Jesuits, priests and popish recusants. To which our humble petitions . . . we do most humbly beseech your Majesty to vouchsafe a gracious answer. *Lords' Journals*, III. p. 298.

II. Privileges and Judicature.

1. Privilege of Freedom from Arrest.

Case of Sir Thomas Shirley, 1604.

(a) *Debates in the House of Commons, &c.*

Die Jovis, 22° Martii 1603[-4] . . . This being a motion tending to matter of privilege[1] was recorded with another by Mr Serjeant Shirley, touching an arrest made on the 15th of March last, . . . four days before the sitting of the parliament, upon the body of Sir Thomas Shirley, elected one of the burgesses for the borough of Steyning, . . . at the suit of one Gyles Sympson, a goldsmith, by one William Watkyns, a serjeant at mace, and Thomas Aram, his yeoman; and prayed that the body of the said Sir Thomas might be freed, according to the known privilege of the House.

Hereupon the House, in affirmation of their own privilege, assented and ordered, That a warrant according to the ancient form should be directed, under the hand of Mr Speaker, to the Clerk of the Crown, for the granting of a writ of Habeas Corpus to bring the body of the said Sir Thomas into the house . . .

The form of the warrant was:

Jovis 22° Martii, 1603.

It is this day ordered and required by the Commons House of parliament that a writ of *Habeas Corpus* be awarded for the bringing of the body of Sir Thomas Shirley knight, one of the

[1] The reference is to a motion in the case of Goodwin and Fortescue.

members of this House and now prisoner in the Fleet, into the said House, upon Tuesday next, at eight a clock in the morning, according to the ancient privilege and custom in that behalf used. And this shall be your warrant. Your loving friend, Edward Phelips, Speaker.

Directed, To my very loving friend, Sir George Coppyn knight, Clerk of the Crown in his Majesty's High Court of Chancery.

Upon this warrant issued a writ of *Habeas Corpus* . . .

The serjeant of the House was also commanded by the House to bring in at the same time the bodies of W. Watkyns, the serjeant, and T. Aram, his yeoman . . .

[27 March] . . . This day the writ of *Habeas Corpus*, formerly awarded by order of the House for the bringing in of the body of Sir T. Shirley . . . was returned by the warden of the Fleet, the prisoner himself brought to the bar, and Simpson, the goldsmith, and Watkyns, the serjeant at mace, as delinquents, brought in by the serjeant of the House . . . Mr Speaker proposed divers questions to be answered by the said offenders . . . The case being understood by the House and the parties withdrawn, sundry learned members delivered their opinion, both in the point of privilege and in the point of law . . . The dispute ended for this day with . . . a motion that a special committee might be named for the consideration of all the questions and doubts in this case; and thereupon were named [a committee of 18] . . .

[After an adjournment for the Easter recess.]

[11 April] . . . Mr Hitcham reporteth the travel of the committees in Sir T. Shirley's case . . . Upon this report, the question was moved, . . . Whether Simpson, the serjeant, and his yeoman should be committed, viz. to the Tower, the proper prison of the House. Resolved, that they should be committed . . . According to former order, a warrant for a writ of *Habeas Corpus* to bring in the body of Sir T. Shirley issued . . . A warrant was also directed for the bringing in of Simpson . . . and Watkins, . . . to this effect:

Whereas Gyles Sympson and William Watkins have committed a manifest contempt against the privileges of this parliament and now remain prisoners in the Fleet, it is

required by the Commons House of Parliament, that you take the bodies of the said Gyles and William into your custody and bring them into the said House upon Friday the 13th of this month at 8 a clock in the morning, to answer to such matters as shall be objected to them. And this shall be your warrant.

Directed, To my loving friend Mr Roger Wood esquire, ... serjeant of the Commons House of Parliament.

[13 April] ... Counsel in Sir T. Shirley's case came to the bar ... Ordered, upon this argument, That Simpson ... and Watkins ... be committed to the prison of the Tower.

[8 May] ... Sir T. Shirley's case remembered by Sir John Shirley, and moved that a warrant might be directed from this House for committing the warden of the Fleet close prisoner in the Tower. Which was ordered and done in this form: Whereas the serjeant at arms, attendant upon the Commons House of Parliament, was by order and commandment sent to bring the body of Sir Thomas Shirley knight, one of the members of the House and now prisoner in the Fleet, into the said House, according to their known privilege, and the warden of the Fleet being required by the same order to deliver him did deny to do it, to the manifest contempt of the said privilege; it is this day ordered, That the serjeant shall apprehend the body of the said warden and convey him to the prison of the Tower and there deliver him to the lieutenant, with direction in the name of the House that he be committed close prisoner until the further pleasure of the House be known. And this shall be to the said serjeant and lieutenant a sufficient warrant. Edw. Phelips, Speaker.

... The warden of the Fleet was brought to the bar by the serjeant, and being charged with his obstinacy and contempt he offereth the writ of *Habeas Corpus*, with the return, which was read as followeth:

Jacobus Dei gratia [etc.] guardiano prisonae nostrae de le Fleet salutem. Praecipimus tibi quod habeas coram nobis, in praesenti parliamento nostro apud Westm., in die Martis octavo die instantis mensis Maii, circa horam octavam ante meridiem ejusdem diei, corpus Thomae Shirley militis, capti et in prisona nostra sub custodia tua, ut dicitur, detenti, quocunque

nomine aut cognomine idem Thomas censeatur, una cum causa captionis et detentionis ejusdem Thomae, ad respondendum super hiis quae sibi tunc ibidem objicientur, et ad faciendum ulterius et recipiendum quod per nos in parliamento nostro praedicto consideratum et ordinatum fuerit. Et hoc nullatenus omittas, sicut nobis inde respondere volueris. Et habeas ibi hoc breve. Teste meipso, apud Westm., septimo die Maii, anno regni nostri . . . secundo . . .

Responsum Johannis Trench armigeri, gardiani: Ego Johannes Trench armiger, gardianus prisonae Domini Regis de le Fleet, Domino Regi in parliamento suo certifico, quod istud breve adeo tarde mihi advenit quod corpus infra nominati Thomae Shirley ad diem, horam et locum infra content. habere non potui, prout interius mihi praecipitur.

[The warden was then examined at the bar and, refusing to discharge Sir T. Shirley at the bidding of the House, was committed to the Tower. The serjeant was again sent to the Fleet and in vain demanded the release of the prisoner.]

[11 May] . . . The House finding him [the warden] still perverse, . . . Mr Speaker pronounced his judgment (as he was formerly directed), that, as he doth increase his contempt, so the House thought fit to increase his punishment, and that their resolution was now, he should be committed to the prison called Little Ease, in the Tower [which was accordingly done.]

[15 May. The warden having at length offered to discharge his prisoner, Sir T. Shirley was released, and being admitted took the oath and his seat.]

[19 May] . . . The warden of the Fleet, attending at the door, was called in and, on his knees at the bar, confessed his error and presumption and professed that he was unfeignedly sorry that he had so offended this honourable House. Upon this his submission, Mr Speaker, by direction of the House, pronounced his pardon and discharge.

Commons' Journals, I. pp. 149-214.

(b) *Shirley's Act.*

1 Jac. I. Private Acts, Cap. 10.

An Act to secure the debt of Simpson and others, and save harmless the warden of the Fleet in Sir Thomas Shirley's case.

Humbly pray the Commons of this present parliament that, whereas Thomas Shirley knight, which came by your Highness' commandment to this your present parliament, being elected and returned a burgess for the borough of Steyning in your Highness' county of Sussex, was upon the 15th day of March last past arrested by the sheriff of London at the suit of one Giles Simpson first upon an action of debt, and afterwards the same day laid and detained in execution upon a recognisance, of the nature of the statute staple, of £3000, in the prison commonly called the Compter in the Poultry in London, at the suit of the said Simpson, and from thence by *Habeas Corpus* was removed to your Majesty's prison of the Fleet, . . . contrary to the liberties, privilege and freedom accustomed and due to the Commons of your Highness' parliament, who have ever used to enjoy the freedom in coming to and returning from the parliament and sitting there without restraint or molestation, and it concerneth your Commons greatly to have this freedom and privilege inviolably observed; yet, to the end that no person be prejudiced or damnified hereby, May it please your Highness by the assent of the Lords spiritual and temporal and Commons in this present parliament assembled, and by the authority of the same, it may be ordained and enacted, That the said sheriff of London, the now warden of the Fleet, and all others that have had the said Thomas in custody since the said first arrest . . . may not nor shall in any wise be hurt, endamaged or grieved because of dismissing at large the said Thomas Shirley: saving always to the said Giles Simpson and other the persons before said, at whose suit the said Thomas is detained in prison, their executions and suits at all times after the end of this present session of parliament to be taken out and prosecuted as if the said Thomas had never been arrested or taken in execution, and as if such actions had never been brought or sued against him; saving also to your Majesty's

said Commons called now to this your parliament, and their successors, their whole liberties, franchises and privileges in all ample form and manner, as your Highness' said Commons at any time before this day have had, used and enjoyed and ought to have, use and enjoy, this present act and petition in any wise notwithstanding.

From the original in the Parliament Office.

2. Right of Examining Returns.

(a) *Buckinghamshire Election*, 1604.

[House of Commons.] Die Jovis, 22° Martii, 1603[-4] ... The first motion was made by Sir William Fleetwood, one of the knights returned for the county of Bucks, on the behalf of Sir Francis Goodwin knight, who, upon the first writ of summons directed to the sheriff of Bucks, was elected the first knight for that shire: but, the return of his election being made, it was refused by the clerk of the crown, *quia utlagatus*: and because Sir John Fortescue, upon a second writ, was elected and entered in that place, his desire was that this return might be examined and Sir Francis Goodwin received as a member of the House. The House gave way to the motion; and for a more deliberate and judicial proceeding in a case of privilege so important to the House, ordered, That the serjeant (the proper officer of the House) should give warning to the clerk of the crown to appear at the bar at 8 a clock the next morning, and to bring with him all the writs of summons, indentures, and returns of elections for the county of Bucks, made and returned for this parliament; and to give warning also to Sir Francis Goodwin to attend in person ...

[March 23]. Sir George Coppin, clerk of the crown, ... appeared at the bar and produced all the writs of summons, [&c.] which were severally read by the clerk of the House, and then the clerk of the crown commanded to retire to the door: and after, Sir F. Goodwin himself, ... attending to know the pleasure of the House, was called in to deliver the state of his own cause *ore tenus*; wherein he was heard at large ... After much dispute, the question was agreed upon and made: *Q.* Whether Sir F. Goodwin were lawfully elected and returned

one of the knights for Bucks, and ought to be admitted and received as a member of this House? Upon this question, it was resolved in the affirmative, That he was lawfully elected and returned and *de jure* ought to be received. Hereupon the clerk of the crown was commanded to file the first indenture of return: and order was given, That Sir Francis should presently take the oath of supremacy as usual and his place in the House; which he did accordingly.

[March 27]...: Sir Edw. Coke, his Majesty's attorney-general, Mr Carew, Mr Hone, and Mr Tyndall, delivered from the Lords, That their Lordships taking notice in particular of the return of the sheriff of Bucks and acquainting his Majesty with it, his Highness conceived himself engaged and touched in honour that there might be some conference of it between the two Houses; and to that end signified his pleasure unto them, and by them to this House. Upon this message, so extraordinary and unexpected, the House . . . resolved, That his Majesty might be moved for access the next day.

[March 29] . . . Mr Speaker relateth what he had delivered to the King by warrant from the House, touching their proceeding in Sir F. Goodwin's case, and his Majesty's answer; . . . That for his part he was indifferent which of them was chosen, Sir John or Sir Francis: that they could suspect no special affection in him, because this was a counsellor not brought in by himself. That he had no purpose to impeach their privilege, but since they derived all matters of privilege from him and by his grant, he expected they should not be turned against him. That there was no precedent did suit this case fully . . . By the law this House ought not to meddle with returns, being all made into the chancery, and are to be corrected or reformed by that court only into which they are returned. 35 H. 6, it was the resolution of all the judges, that matter of outlawry was a sufficient cause of dismission of any member out of the House. That the Judges have now resolved, that Sir F. Goodwin standeth outlawed according to the laws of this land. In conclusion, it was his Majesty's special charge unto us, That, first, the course already taken should be truly reported: secondly, that we should debate the matter and resolve amongst ourselves: thirdly, that we should admit of conference

with the Judges: fourthly, that we should make report of all the proceedings unto the council . . .

[March 30] . . . Moved and urged by a member, touching the difference now on foot between the King and the House, that there is just fear of some great abuse in the late election: that in his conscience the King hath been much misinformed, and that he had too many misinformers, which he prayed God might be removed or lessened in their number: that now the case of Sir John Fortescue and Sir Francis Goodwin was become the case of the whole kingdom: that old lawyers forget, and commonly interpret the law according to the time; that by this course the free election of the country is taken away, and none shall be chosen but such as shall please the King and Council. Let us therefore, with fortitude, understanding and sincerity, seek to maintain our privilege . . .

Upon the conclusion of this debate . . . , the House proceeded to question; and the first was, 1. *Q.* Whether the House was resolved in the matter? And the question was answered by general voice, That the whole House was resolved. 2. *Q.* Whether the reasons of their proceeding shall be set down in writing? Resolved, That they shall be set down in writing; and ordered further that a committee should be named for that purpose . . .

[April 3.] The reasons of the proceeding of the House in Sir Francis Goodwin's case, penned by the committee, were, according to former order, brought in by Mr Francis Moore, and read by the clerk, directed in form of a petition:

To the King's most excellent Majesty; the humble answer of the Commons House of Parliament to his Majesty's objections in Sir Francis Goodwin's case.

Most gracious, our dear and dread Sovereign, relation being made to us by our Speaker of your Majesty's royal clemency and patience in hearing us and of your princely prudence in discerning, . . . we do in all humbleness render our most bounden thanks for the same: protesting, by the bond of our allegiance, that we never had thought to offend your Majesty; at whose feet we shall ever lie prostrate, with loyal hearts, to sacrifice ourselves and all we have for your Majesty's service: and in this particular, we could find no quiet in our minds, that

would suffer us to entertain other thoughts, until we had addressed our answer to your most excellent Majesty . . .

There were objected against us by your Majesty and your reverend judges four things, to impeach our proceedings in receiving Francis Goodwin knight into our House.

Objectio 1ma. The first, That we assumed to ourselves power of examining of the elections and returns of knights and burgesses, which belonged to your Majesty's Chancery, and not to us: for that all returns of writs were examinable in the courts wherein they are returnable; and the parliament writs being returnable into the chancery, the returns of them must needs be there examined and not with us.

Our humble answer is, That, until the seventh year of King Henry IV, all parliament writs were returnable into the parliament (as appeareth by many precedents of record ready to be shewed), and consequently the returns there examinable: in which year a statute[1] was made, That thenceforth every parliament writ, containing the day and place where the Parliament shall be holden, should have this clause, viz. 'Et electionem tuam in pleno comitatu factam distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerint nobis in cancellariam nostram ad diem et locum in brevi contentos certifices indilate.'—By this, although the form of the writ be somewhat altered, yet the power of the parliament to examine and determine of elections remaineth; for so the statute hath been always expounded ever since, by use to this day: and for that purpose, both the clerk of the crown hath always used all the parliament time [to attend] upon the Commons House with the writs and returns; and also the Commons in the beginning of every parliament have ever used to appoint special committees, all the parliament time, for examining controversies concerning elections and returns of knights and burgesses: . . . for that it is fit that the returns should be in that place examined, where the appearance and service of the writ is appointed . . .

Objectio 2a. That we dealt in the cause with too much precipitation, not seemly for a council of gravity, and without respect to your most excellent Majesty our sovereign, who had

[1] 7 Hen. IV. 15.

directed the writ to be made; and, being but half a body and no court of record alone, refused conference with the Lords, the other half, notwithstanding they prayed it of us.

Our humble answer is, to the precipitation, That we entered into this cause as in other parliaments of like cases hath been accustomed, calling to us the clerk of the crown, and viewing both the writs and both the returns; . . . concerning our refusing conference with the Lords, there was none desired until after our sentence passed; and then we thought that in a matter private to our own House, which, by rules of order, might not be by us revoked, we might, without any imputation, refuse to confer, . . . not doubting, though we were but part of a body as to make new laws, yet for any matter of privileges of our House we are and ever have been a court of ourselves, of sufficient power to discern and determine without their Lordships, as their Lordships have used always to do for theirs without us.

Objectio 3ª. That we have, by our sentence of receiving Goodwin, admitted that outlaws may be makers of laws; which is contrary to all laws.

Our humble answer is, That notwithstanding the precedents which we truly delivered, of admitting and retaining outlaws in personal actions in the Commons House, and none remitted for that cause; yet we received so great satisfaction, delivered from your royal Majesty's own mouth, with such excellent strength and light of reason, more than before in that point we heard or did conceive, as we forthwith prepared an act to pass our House, That all outlaws henceforth shall stand disabled to serve in parliament; but as concerning Goodwin's particular, it could not appear unto us, having thoroughly examined all parts of the proceedings against him, that he stood an outlaw by the laws of England at the time of the election . . .

Objectio 4ª. That we proceeded to examine the truth of the fact of outlawry, and gave our sentence upon that; whereas we ought to have been bound by the sheriff's return of the outlawry from further examining, whether the party were outlawed or not.

Our humble answer is, That the precedents cited before, in

our answer to the first objection, do prove the use of the Commons House to examine *veritatem facti* in elections and returns, and have not been tied peremptorily to allow the return . . .

[April 5]. Mr Speaker, by a private commandment, attended the King this morning at 8 a clock and there stayed till 10 . . . Mr Speaker bringeth message from his Majesty to this effect: . . . His Majesty protested . . . he had as great a desire to maintain their privileges as ever any prince had, or as they themselves. He had seen and considered of the manner and the matter: he had heard his judges and his council; and that he was now distracted in judgment. Therefore, for his further satisfaction, he desired and commanded, as an absolute king, that there might be a conference between the House and the Judges; and that for that purpose there might be a select committee of grave and learned persons out of the House: that his council might be present, not as umpires to determine, but to report indifferently on both sides.

Upon this unexpected message there grew some amazement and silence. But at last one stood up and said, The prince's command is like a thunder-bolt; his command upon our allegiance like the roaring of a lion. To his command there is no contradiction; but how or in what manner we should now proceed to perform obedience, that will be the question. Another answered, Let us petition to his Majesty that he will be pleased to be present, to hear, moderate and judge the case himself. Whereupon Mr Speaker proceeded to this question: *Q.* Whether to confer with the judges in the presence of the King and council? Which was resolved in the affirmative, and a select committee presently named for the conference . . .

[April 11.] Upon adjournment . . . Sir Francis Bacon reporteth what had passed in conference in the presence of his Majesty and council. The King said . . . that our privileges were not in question: that it was private jealousies without any kernel or substance. He granted it was a court of record and a judge of returns. He moved, That neither Sir J. Fortescue nor Sir F. Goodwin might have place. Sir John losing place, his Majesty did meet us half-way . . .

Upon this report . . . the question was presently made;

Q. Whether Sir J. Fortescue and Sir F. Goodwin shall both be secluded, and a warrant for a new writ directed? And upon the question, resolved, That a writ should issue for a new choice; and a warrant directed accordingly.

[April 13] . . . The warrant for a new election of a knight for Bucks read and allowed in this form:

Whereas the Right Hon. Sir John Fortescue knight, Chancellor of his Majesty's Duchy of Lancaster, and Sir Francis Goodwin knight have been severally elected and returned knights of the shire for the county of Bucks, to serve in this present parliament: upon deliberate consultation, and for some special causes moving the Commons House of Parliament, it is this day ordered and required by the said House, That a writ be forthwith awarded for a new election of another knight for the said shire; and this shall be your warrant. Directed, To my very loving friend, Sir George Coppin knight, clerk of the crown in his Majesty's high court of Chancery.

Commons' Journals, I. pp. 149–171.

(b) *Elections for Cardigan and Shrewsbury*, 1604.

Die Veneris, viz. 13° die Aprilis, 1604. . . Mr Serjeant Snig maketh report of a case referred to the Committee for Returns and Privileges, viz. touching a difference in the election of a burgess for the town of Cardigan in Wales, and first reciteth the effect of the statutes directing the form of choosing a burgess for Parliament in every shire in Wales. [Portions of statutes 23 Hen. VI. 18, and 35 Hen. VIII. 26 are recited.]

The Case. Sir Richard Price knight, sheriff of the county of Cardigan, . . . after the receipt of the King's writ for the choice of a knight for the shire and burgess for the town of Cardigan, made forth his precept to the mayor of Cardigan, being mayor of the shire town, who according to these statutes made proclamation.

The sheriff of the shire, minding to make choice of a friend of his, notwithstanding this his precept, proceeds to the election of another in Aberystwith, one of the contributory towns, and receives the return of the indentures made between him and the mayor of Aberystwith and others having voices in the said election, this being in the sheriff's county then held in Aberyst-

with, by which indentures Ricard Delabere esquire is returned burgess elected for Cardigan.

The mayor of Cardigan, being mayor of the shire town, returns his election, lawfully made according to the said statutes, by indenture, wherein William Bradshawe esquire, resident within the town of Cardigan, is elected. The sheriff returns both the indentures.

This being the truth of the case and debated by the Committees, the reporter said they were clearly of opinion that Mr Bradshawe was lawfully elected, returned, and ought to be sworn, and the sheriff to be censured, according to the course of the House in such cases of offence of sheriffs.

Whereupon Mr Speaker requiring the opinion of the House, they assented, and Mr Bradshawe was sworn and admitted. And besides it was ordered, That Mr Speaker should direct his warrant to the serjeant of the House for attaching the body of the said sheriff, as in like cases is usual: which was accordingly done . . .

The manner of the election and return of the burgesses for the town of Shrewsbury falling into question between Mr Serjeant Harris the younger and Mr Barker, the case was opened to the House by Mr Tate and argued *pro et contra* by sundry members of the House. The case being this, That upon the first writ of election choice was made of Mr Barker, and an indenture returned and delivered by Mr Barker himself to the clerk of the crown; the sheriff afterwards procureth Mr Serjeant Harris to be chosen, and returneth and justifieth another indenture made between the electors and himself which is not according to the statute of election of 23 Eliz.[1] So as hereupon, after great dispute, sundry questions were agreed on and made:

1. Whether the first indenture between the sheriff [sic] and bailiffs, and 2. Whether the indenture between the sheriff and the electors shall be accepted by the House?

And resolved, upon these questions, that neither ought to be accepted, and so both the returns damned. A third question was made: 3. Whether a warrant shall issue for a new writ? 4. Whether the sheriff shall be sent for by warrant directed to

[1] It does not appear what statute is referred to.

the serjeant of the House? And both questions resolved in the affirmative.

The warrant for a new writ was in this form:

Whereas two several indentures have been lately made concerning the election of burgesses for the town of Shrewsbury, one between the bailiffs and burgesses of the said town, and the other between the sheriff of the county and sundry the burgesses of the said town; the first whereof, being not returned by the sheriff but disavowed by his deputy, the other returned by him, are both by the Commons House of Parliament conceived and adjudged to be insufficient: It is therefore required on behalf of the said House that a new writ be forthwith awarded for a new election of burgesses to be made for the said town. And this shall be your warrant.

Edward Phelips, Speaker.

Directed:

To my very loving friend Sir Geo. Coppin knight, Clerk of the Crown in Chancery. *Commons' Journals*, I. pp. 170–171.

(c) *Election for Cambridge*, 1621.

[22 March, 1620] ... Sir Ro. Phillippes: That the mayor of Cambridge, Mr Foxton, hath returned himself. Upon question, Mr Foxton, being mayor at the time of his election, to be removed, and a new writ: [resolved] without one negative.

Commons' Journals, I. p. 569.

3. Right of Expulsion.

[House of Commons, 21 March, 1621] ... Sir Edw. Coke, from the Committee for grievances. The patent for dispensing with pedlars [&c.] ruled ... to be a patent of grievance ... The last, for wills engrossing, the worst of all ... The subject hath liberty by the law to engross his own will ... Now every one of these must come to Sir R. Floyde: he [hath] the sole engrossing of all wills and inventories.

[After debate] Upon question, Sir R. Floyde to be removed out of the House, for being a projector and maintainer of this patent ... Sir R. Floyde called to the bar.... Mr Speaker pronounceth this sentence: That he is to be no longer any

member of this House, but to be removed; and that his patent a grievance in the original. *Commons' Journals*, I. pp. 565-7.

4. Judicature of Parliament.

(a) *Impeachment of Lord Bacon*, 1621.

[House of Commons] Jovis, 15° Martii, 18° Jacobi . . . Sir Ro. Phillippes reporteth from the Committee for Courts of Justice three parts: person against whom, the matter, and opinion of the Committee, with desire of further direction. The person, the Lord Chancellor . . . The matter, corruption: the parties accusing, Aubrey and Egerton.

[17 March] . . . [After further report from the Committee a debate took place, in which] Sir Edw. Coke moveth, . . . that the witnesses that can testify this, not of the House, may testify this to the Lords, when cause. That we must go to the Lords according to precedents . . . Upon question, resolved, That the complaints of Aubrey and Egerton against the Lord Chancellor and the Bishop [of Llandaff] for corruption, for the 100*l.* and 400*l.* and the recognisance, shall be presented to the Lords from this House, without prejudice or opinion.

[19 March] . . . Mr Secretary, from the King . . . That the King taking notice of the accusations against the Lord Chancellor . . . will, if shall be thought fit here, grant out a commission . . . to examine all upon oath, all that can speak in this business. The commissioners, six of the Upper House to be chosen by them, and twelve here to be chosen.

Sir Edw. Coke. That this gracious message taketh not away our parliamentary proceeding. To go on with our message: then to deliberate upon this. . . .

Sir Edw. Sackville. To have no divorce between the Lords and us . . .

[Thanks having been voted to the King for his message] Mr Secretary, from the King, That he acquainted the King with the thanks of the House . . . and that the House desireth he will be pleased to send a message to the Lords about the commission, and receive their answer, that so they and this House may proceed with an unanimous assent, as hitherto they have done.

Sir Ro. Phillippes: That he acquainted the Lords, that where this House had made inquisitions into the courts of justice within this kingdom, they had met with some complaints against some Lords of that House, and that therefore they desired a conference with the Lords . . . Answer, That the Lords would afford a conference with the whole House in the Painted Chamber this afternoon.

[House of Lords, March 20] The Lord Treasurer reported the conference yesterday with the Commons . . . He showed also that the Commons do purpose that, if any more of this kind happen to be complained of before them, they will present the same to your Lordships; wherein they shall follow the ancient precedents, which show that great personages have been accused for the like in parliament. They humbly desire that, forasmuch as this concerns a person of so great eminency, it may not depend long before your Lordships; that the examination of proofs may be expedited; and, if he be found guilty, then to be punished; if not guilty, the accusers to be punished . . .

After much debate thereof . . . it was agreed, That a message should be sent to the Lower House . . . To declare unto the knights, citizens and burgesses of the House of Commons that the Lords have, according to the conference yesterday, taken consideration of the complaints by them made against the Lord Chancellor and against the Bishop of Llandaff . . .

[March 21] . . . For that divers were sworn and many were offered to be sworn, *in dicta causa Domini Cancellarii*, it was ordered three committees to be appointed, to take some of the examinations to expedite the cause.

[The House of Lords having been occupied for many days in taking evidence, Lord Bacon's confession was read before the House on April 30.]

[May 2] . . . Agreed to proceed to sentence the Lord Chancellor to-morrow morning.

[May 3. The Chancellor being too ill to appear when summoned,] the Lords resolved to proceed against the Lord Chancellor, and the King's attorney having read the charge and confession, it was put to the question, whether the Lord Chancellor were guilty of the matters wherewith he was charged,

or no? Agreed by all, *nemine dissentiente*, That he was thereof guilty . . .

The Lords, having agreed upon the sentence to be given against the Lord Chancellor, did send a message to the House of Commons . . . That the Lords are ready to give judgment against the Lord Viscount St Alban, Lord Chancellor, if they with their Speaker will come to demand it.

In the mean time the Lords put on their robes, and, answer being returned of this message and the Commons come, the Speaker came to the bar and, making three low obeisances, said:

The knights, citizens, and burgesses of the Commons House of Parliament have made complaint unto your Lordships of many exorbitant offences of bribery and corruption committed by the Lord Chancellor. We understand that your Lordships are ready to give judgment upon him for the same. Wherefore, I, their Speaker, in their name, do humbly demand and pray judgment against him, the Lord Chancellor, as the nature of his offence and demerits do require.

The Lord Chief Justice answered, Mr Speaker; Upon the complaint of the Commons against the Lord Viscount St Alban, Lord Chancellor, this high court hath thereby and by his own confession found him guilty of the crimes and corruptions complained of by the Commons and of sundry other crimes and corruptions of like nature. And therefore this high court, having first summoned him to attend and having received his excuse of not attending, by reason of infirmity and sickness (which he protested was not feigned, or else he would most willingly have attended), doth nevertheless think fit to proceed to judgment. And therefore this high court doth adjudge, 1. That the Lord Viscount St Alban, Lord Chancellor of England, shall undergo fine and ransom of £40,000. 2. That he shall be imprisoned in the Tower during the King's pleasure. 3. That he shall for ever be incapable of any office, place or employment in the state or commonwealth. 4. That he shall never sit in Parliament, nor come within the verge of the court. This is the judgment and resolution of this high court.

Lords' Journals, III. pp. 53–106; *Commons' Journals*, I. pp. 554–563.

(b) *Floyde's case*, 1621.

[House of Commons, April 28] . . . The business concerning the Fleet to be heard upon Monday next. . . . Floyde to be here.

[May 1] Floyde called in to the bar, and kneeling, Mr Speaker pronounced his judgment. . . .

[May 4] . . . Be it remembered, that upon Tuesday, the first day of May, in the year of the reign of our sovereign Lord James . . . the 19th, Edward Floyde, late of Clannemayne within the county of Salop, esquire, was impeached before the Commons assembled in this Parliament, for that the said Edward since the summons of this Parliament, in the prison of the Fleet, having communication concerning the most illustrious princess the lady Elizabeth . . . and the most excellent prince her husband, did use and utter, openly and publicly, false, malicious and despiteful speeches of the said two princes; saying in this manner, 'I have heard, that Prague is taken; and Goodman Palsgrave and Goodwife Palsgrave have taken their heels, and run away; and, as I have heard, Goodwife Palsgrave is taken prisoner'; . . . and that at other times he did, in like despiteful and reproachful manner, use other malicious and opprobrious words of them. Whereupon the said Commons, of their love and zeal to our said sovereign Lord, and not minding to let pass unpunished those things that tended to the disgrace of his Majesty's issue, a part of himself, who is head of the Parliament, did call before them the said Edw. Floyde and thereof did question him; and thereupon so far proceeded, that after, upon the same day, for that the said matters whereof the said Edward was impeached were true and notorious, therefore the said Commons, in the Commons House assembled in parliament, did adjudge and award that the said Edward should . . . the next morning be brought to Westminster, into the great yard before the door of the great hall of pleas, and be there set and stand upon the pillory from 9 until 11 of the clock in the forenoon, with a paper upon his hat, with this inscription, in capital letters, of these words; 'For false, malicious and despiteful speeches against the King's daughter and her husband'; . . . and that there is set and assessed upon him a fine of £1000.

[House of Lords, May 5] . . . The House being moved to take consideration of an act lately done by the Commons, in conventing before them the person of one Edward Floud, in examining of witnesses and giving judgment upon him, and entering this as an act with them, the which doth trench deep into the privilege of this House, for that all judgments do properly and only belong unto this House; the Lords resolved not to suffer anything to pass which might prejudice their right in this point of judicature, and yet so to proceed as the love and good correspondency between both Houses might be continued. Whereupon . . . they sent this message in writing unto the Commons: '. . . Their Lordships, having heard of a censure lately passed in that House against one Edward Floud, are desirous of conference for the accommodating that business in such sort as may be without any prejudice to the privilege of either House . . .'

[The Commons assenting, the conference was held the same day.]

[May 7] . . . The Lords having considered of the precedents alleged by the Commons at the last conference 5° Maii, they found that they tended to prove, 1. That the House of Commons is a Court of Record. 2. That they have ministered an oath in matters concerning themselves. 3. That they have inflicted punishments on delinquents, where the cause hath concerned a member of their House or the privileges thereof. And their Lordships having determined that the question at this time is not, whether that House be a Court of Record [&c.], . . . but the question is, whether that House may proceed to sentence any man who is not a member of that House, and for a matter which concerns not that House: for which the Commons alleged no proofs nor produced any precedent; their Lordships agreed to pray a re-conference about the same, and at the conference to handle this only, viz. That the House of Commons have no power of judicature nor coercion against any, but in matters concerning that House.

[The second conference having taken place, sub-committees of both Houses were appointed and conferred.]

[May 12] . . . The Archbishop of Canterbury reported the conference yesterday between the two sub-committees of both Houses to this effect, viz.: 1. They showed their constant reso-

lution to maintain the love and good correspondency between both Houses. 2. Their resolution not to invade the privileges of this House, that have dealt so nobly with them. 3. That out of their zeal they sentenced Floud; but they leave him to the Lords, with an intimation of their hope that this House will censure him also. They propounded a protestation to be entered with them, for a mean to accommodate the business between both Houses. . . . The protestation was read twice and no exceptions taken unto it. It followeth, *in haec verba*, viz.: A protestation to be entered, by consent of the House of Commons, to this purpose: That the proceedings lately passed in that House against Edward Floud be not at any time hereafter drawn or used as a precedent, to the enlarging or diminishing of the lawful rights or privileges of either House; but that the rights and privileges of both Houses shall remain in the self-same state and plight as before.

[May 14] . . . Message from the Commons . . . The Knights [&c.] of the House of Commons humbly desire to know whether the same [protestation] be approved of here . . . or no. The Lords . . . answered; The Lords have approved, and they do approve and corroborate the same protestation.

[House of Commons, May 14] . . . Sir Edw. Sands: In the now message to the Lords, to give some intimation of our . . . liking of the protestation offered by the sub-committee of the Lords: which read . . . and assented to by the House.

[House of Lords, May 26] . . . Edw. Floud being brought to the bar, Mr Attorney charged him with notorious misdemeanours and high presumption. . . . [After examination, and sentence agreed on] Edw. Floud being brought to the bar again, Mr Attorney General . . . prayed the Lords to proceed to judgment against him. Whereupon the Lord Chief Justice[1] pronounced the sentence in these words, viz. The Lords spiritual and temporal, considering of the great offence of the said Edward Floude, do award and adjudge: 1. That the said Edw. Floude shall be incapable to bear arms as a gentleman . . . 4. That he shall be fined to the King in £5000. 5. That he shall be imprisoned in Newgate during his life.

Lords' Journals, II. pp. 110–134; *Commons' Journals*, I. pp. 596–621.

[1] Acting as Speaker of the House in the vacancy of the Chancellorship.

III.—UNPARLIAMENTARY TAXATION.

1. Bates' Case.

(a) *Arguments of the Judges*, 1606[1].

[*Baron Clarke*] . . . It seemeth to me strange that any subjects would contend with the King in this high point of prerogative; but such is the King's grace that he has shewed his intent to be, that this matter shall be disputed and adjudged by us according to the ancient law and custom of the realm . . . As it is not a kingdom without subjects and government, so he is not a king without revenues . . . The revenue of the crown is the very essential part of the crown, and he who rendeth that from the King pulleth also his crown from his head, for it cannot be separated from the crown. And such great prerogatives of the crown, without which it cannot be, ought not to be disputed; and in these cases of prerogative the judgment shall not be according to the rules of the common law, but according to the precedents of this court, wherein these matters are disputable and determinable . . .

True it is that the weal of the King is the public weal of the people, and he for his pleasure may afforest the wood of any subject, and he thereby shall be subject to the law of the forest; and he may take the provision of any man by his purveyor for his own use, but at reasonable prices and without abuse, the abuse of which officer hath been restrained by divers statutes; and the King may take wines for his provision, and also timber for his ships, castles or houses in the wood of any man, and this is for public benefit: and the King may alloy or enhance coin at his pleasure, for the plenty of the king is the people's peace . . .

The Statute of the 45 Edw. III, Cap. 4, which hath been so much urged, that no new imposition shall be imposed upon wool-fells, wool or leather but only the custom and subsidy granted to the King—this extends only to the King himself and shall not bind his successors, for it is a principal part of the Crown of England which the King cannot diminish. And the same King, in the 24th of his reign, granted divers exemptions

[1] The case was tried in the Exchequer Court, Nov. 1606. The judgments of Baron Clarke and Chief Baron Fleming have alone been preserved.

to certain persons, and because that it was in derogation of his state imperial, he himself recalled and annulled the same . . .

All the ports of the realm belong to the King . . . The writ of *ne exeat regno* comprehends a prohibition to him to whom it is directed that he shall not go beyond the seas, and this may be directed at the King's pleasure to any man who is his subject; and so consequently may he prohibit all merchants. And as he may prohibit the persons, so may he the goods of any man, viz. that he shall export or import at his pleasure. And if the King may generally inhibit that such goods shall not be imported, then by the same reason may he prohibit them upon condition or *sub modo*, viz. that if they import such goods, that then they shall pay, &c. . . .

[*Chief Baron Fleming.*] The King's power is double, ordinary and absolute, and they have several laws and ends. That of the ordinary is for the profit of particular subjects, for the execution of civil justice, the determining of *meum*; and this is exercised by equity and justice in ordinary courts, and by the civilians is nominated *jus privatum*, and with us common law; and these laws cannot be changed without parliament; and although that their form and course may be changed and interrupted, yet they can never be changed in substance. The absolute power of the King is not that which is converted or executed to private use, to the benefit of any particular person, but is only that which is applied to the general benefit of the people, and is *salus populi*; as the people is the body, and the King the head; and this power is [not][1] guided by the rules which direct only at the common law, and is most properly named policy and government; and as the constitution of this body varieth with the time, so varieth this absolute law, according to the wisdom of the King, for the common good; and these being general rules, and true as they are, all things done within these rules are lawful. The matter in question is material matter of state, and ought to be ruled by the rules of policy, and if it be so, the King hath done well to execute his extraordinary power.

All customs, be they old or new, are no other but the effects

[1] It seems clear that this word has been accidentally omitted in the report.

and issues of trades and commerce with foreign nations; but all commerce and affairs with foreigners, all wars and peace, all acceptance and admitting for current foreign coin, all parties and treaties whatsoever are made by the absolute power of the King: and he who hath power of causes hath power also of effects . . .

It is said that an imposition may not be upon a subject without parliament. That the King may impose upon a subject, I omit, for it is not here the question if the King may impose upon the subject or his goods. But the impost here is not upon a subject, but here it is upon Bates, as upon a merchant who imports goods within the land, charged before by the King; and at the time when the impost was imposed upon them, they were the goods of the Venetians and not the goods of a subject, nor within the land; . . . and so all the arguments which were made for the subject fail . . .

And whereas it is said, that if the King may impose, he may impose any quantity that he pleases, true it is that this is to be referred to the wisdom of the King, who guideth all under God by his wisdom, and this is not to be disputed by a subject; and many things are left to his wisdom for the ordering of his power rather than his power shall be restrained. The King may pardon any felon: but it may be objected that if he pardon one felon, he may pardon all, to the damage of the commonwealth; and yet none will doubt but that is left to his wisdom . . . And the wisdom and providence of the King is not to be disputed by the subject; for by intendment they cannot be severed from his person, and to argue *a posse ad actum*, to restrain the King and his power because that by his power he may do ill, is no argument for a subject . . .

State Trials, ed. 1779, vol. xi. pp. 30–32.

(b) *Mr. Hakewill's argument*, 1610[1].

Mr Speaker, The question now in debate amongst us is, whether his Majesty may by his prerogative royal, without assent of parliament, at his own will and pleasure, lay a new

[1] This speech was delivered in the House of Commons, some time during the great debate on impositions which began on June 23 and ended on July 3, 1610 (*C. J.* I. pp. 443–5; *Parl. Debates in* 1610, *Camd. Soc.*).

charge or imposition upon merchandizes, to be brought into or out of this kingdom of England, and enforce merchants to pay the same . . .

First, I hold it necessary to consider whether custom were due to the King by the common law. Secondly, admitting it to be due by the common law, whether it were a sum certain, not to be increased at the King's pleasure or otherwise. Thirdly, supposing that by the common law the King might, by way of imposition, have increased his custom at his own will, by his absolute power, without assent in parliament, whether or no he be not bound to the contrary by Acts of Parliament . . . Lastly, I will discover unto you the weakness of such reasons as have been made in maintenance of the King's right to impose . . .

That custom is due by the common law I collect, first by the name thereof . . . To this may be added, that Magna Charta Cap. 30[1], . . . termeth this not only *consuetudo*, which, as I have said, implies antiquity beyond all remembrance of a beginning, but *antiqua consuetudo* . . . But that which most of all moveth me to believe that this duty was and is due by the common law, is this; that in all cases where the common law putteth the King to sustain charge for the protection of the subject, it always yieldeth him out of the thing protected some gain towards the maintenance of the charge . . . This observation . . . maketh me to think that because the common law expecteth that the King should protect merchants in their trades, . . . it also giveth him out of merchandizes exported and imported some profit for the sustentation of this public charge. Otherwise were the law very unreasonable and unjust. So as to prove that by the common law custom is due to the King, I shall need to say no more . . .

I will therefore proceed to my second consideration; whether that profit upon merchandizes, which the common law for these respects gave unto the King, were a duty certain, not to be increased or enhanced at the King's will and pleasure without a common assent in Parliament; or otherwise whether the common law hath left an absolute power in the King to demand in this case more or less at his own pleasure and to compel his subjects to pay it. The resolving of which question will, as

[1] i. e. of the Charter of 1225: § 41 of M. C. 1215.

I conceive, make an end of this controversy between us; for what are these impositions which we complain of, other than the enhancing of the custom by the King's absolute pleasure?...

And first, I lay this as a ground, ... that the common law of England, as also all other wise laws in the world, delight in certainty and abandon uncertainty, as the mother of all debate and confusion, than which nothing is more odious in law ... The common law of England giveth to the King, as to the head of the Commonwealth, no perpetual revenue or matter of profit out of the interest or property of the subject, but it either limiteth a certainty therein at the first, or otherwise hath so provided that, if it be uncertain in itself, it is reducible to a certainty only by a legal course, that is to say, either by Parliament, by judges or jury, and not by the King's own absolute will and pleasure ... There are many other revenues due to the King by the common law as well as custom: if they all or as many as we can call to mind shall fall out to be, as I have said, sums certain and not subject to be increased at the King's will, this will be a forcible argument that custom is likewise certain and not to be enhanced at the King's pleasure. ... The common law giveth the King a fine for the purchase of an original writ. Is it certain? It is, and ever hath been ... May the King increase this fine at his pleasure? There is no man that will say he may. There is a fine due by the common law *pro licentia concordandi*. Is it not certainly known, and so hath always been, to be the tenth part of the land comprised in the writ of the covenant? ... I am unwilling to trouble you with any more particulars of this kind. But let any man shew me one particular to the contrary, and I will then yield that my position, being false in one, may be in more; but till my position hath been in this point infringed, this general concordance of the law in all these particulars is argument enough for me, without having alleged other reasons, to conclude that custom being, as all these are, a revenue due to the King by the common law, arising out of the property and interest of the subject, is, as all these are, limited and bounded by the common law to a certainty which the King hath not power to increase ...

I am now ... to shew you, that where the common law

giveth the King a revenue not certain at the first, that is always reducible to a certainty by a legal course, as by Act of Parliament, judges or jury, and not at the King's pleasure. Every man that by his tenure is bound to serve the King in his wars, and faileth, is to pay, according to the quantity of his tenure, a fine by the name of escuage. This cannot be assessed but in Parliament . . . Fines for misdemeanours are always assessed by the judges. Amercements in all cases are to be assessed by the country, and not to be assessed by the King . . . I am of opinion that if a statute were made that the King might raise the customs at his pleasure, yet might it not be done as now it is, by the King's absolute power, but by some other legal course, of which the common law doth take notice, as in the case of the fine and ransom. Much less then will the common law permit that it should depend upon the King's absolute pleasure, there being no such statute in the case . . .

I proceed to my second reason, which is drawn from the policy and frame of this commonwealth and the providence of the common law, the which, as it requires at the subjects' hands loyalty and obedience to their sovereign, so doth it likewise require at the hands of the sovereign protection and defence of the subject against all wrongs and injuries whatsoever, offered either by one subject to another or by the common enemy to them all or any of them. This protection, the law considereth, cannot be without a great charge to the King . . . He receiveth out of the subject's purse for wardships and the dependances thereupon, as we have of late accounted, about £45,000 by the year. This is a revenue which no other King of the world hath: and as it appears by the Statute of 14 Ed. III, (2) 1. it ought to be employed in maintenance of the wars . . . He hath likewise all forfeitures upon treason and outlawry and upon penal laws, fines and amercements; profits of courts, treasure-trove, prisage, butlerage, wreck, and so many more, as the very enumeration of the particulars would take up a long time. To what other end hath the common law thus provided for the maintenance of the King's charge, by all these ways and means of raising profit out of the interest and property of the subject's estate in lands and goods, but only to this end, that, after these duties paid, the poor subject might hold and enjoy

the rest of his estate to his own use, free and clear from all other burdens whatsoever? . . .

And hereupon, by the knight that last spake, it was held, that upon occasion of a sudden and unexpected war the King may not only lay impositions but levy a tax within the realm without assent of Parliament, which position in my opinion is very dangerous; for to admit this were by consequence to bring us into bondage. You say that upon occasion of sudden war the King may levy a tax. Who shall be judge between the King and his people of the occasion? Can it be tried by any legal course in our law? It cannot. If then the King himself must be the sole judge in this case, will it not follow that the King may levy a tax at his own pleasure, seeing his pleasure cannot be bounded by law? You see into what a mischief the admittance of one error hath drawn you.

But for a full answer to the objection, I say that the providence of the common law is such and so excellent, as that for the defraying of the King's charge upon any occasions of a sudden war, it hath, over and above all the ordinary revenues which it giveth the King, which in the time of war cannot indeed but fall short, made an excellent provision. For, sir, the war must needs be either offensive or defensive . . . If it be an offensive war . . . it cannot be a sudden accident, for it is the King's own act, and it may and it is fitting he should take deliberation; and if it be a just and necessary war, he may crave and easily obtain assistance of his subjects by grant of aid in Parliament . . . Only a defensive war, by invasion of foreign enemies, may be sudden, in which case the law hath not left the King to war upon his own expense or to rely upon his ordinary revenue, but hath notably provided that every subject within the land, high and low, whether he hold of the King or not, in case of foreign invasion, may be compelled at his own charge to serve the King in person . . .

I do then conclude this argument, that seeing the common law, for maintenance of the King's ordinary charge, hath given him such an ample revenue out of the interest and property of the subject, and provided also for sudden occasions, in so doing it hath secluded and secured the rest of the subject's estate from the King's power and pleasure; and consequently that the

King hath not power upon any occasion at his pleasure to charge the estate of his subjects by impositions, tallages or taxes—for I hold them all in one degree—or any other burden whatsoever, without the subject's free and voluntary assent, and that in parliament . . .

I will now, according to my division, urge an argument or two of inference and presumption . . . First in the actions and forbearances of the kings, I observe, that all the kings of this realm since Henry III have sought and obtained an increase of custom more or less by the name of subsidy of the gift of their subjects in parliament . . . Is it likely that, if any or all these kings had thought they had in them any lawful power by just prerogative to have laid impositions at their pleasure, they would not rather have made use of that than have taken this course by act of parliament? . . .

And so I proceed to my next argument of inference drawn from the action of our kings. Some of the kings of England, as namely Edward II . . . and Edward III, . . . were contented to accept an increase of their custom by way of loan from the merchants, and solemnly bind themselves to repay it again. Would any wise man in the world, that thought he had but a colour of right, so much prejudice himself as to borrow that which he might take without leave, and bind himself to repay it? . . .

And yet is not this all, for some of them, by name Edward I, did not only take it by assent in parliament or by way of loan, but (as one that buys for his money in the market) did give for it a real and valuable consideration, and that to merchant strangers of whom there was more colour to demand it as a duty than of his natural subjects. In proof of which I produce *charta mercatoria*[1], made anno 31 Ed. I . . . What stronger inference can there almost possibly be against the King's absolute power of imposing than this: that he was contented, and so specified to all his officers of the ports, that if the merchants did of their own accords pay more than their ancient customs they should have consideration for it, but if they themselves were not willing to pay more, then they should not be compelled thereunto? . . .

I will now make some observations of their forbearance to

[1] Granted to foreign merchants, Feb. 1303; cf. Stubbs, *C. H.* ii. 523.

put this pretended power in practice, considering the several occasions of the times which I will prosecute in order. First therefore in general, I observe that from the Conquest until the reign of Queen Mary, . . . in the practice of this pretended prerogative of imposing, the kings have been so sparing, as . . . it cannot be found or proved by matter of record that six impositions, such as we now complain of, were laid by all those kings . . . And those six, if there were so many, though they were unlawful, yet were they in some sort to be borne withal, first by reason they were very moderate, secondly that they were laid in the times of great and apparent necessity, and that they were to endure but for a year or two; for none of them except only that upon wine laid 16 Ed. I lasted longer . . .

[After going through these precedents severally, and endeavouring to minimise their importance, he proceeds] From the end of the reign of Edward III till the reign of Queen Mary, . . . being the space of 170 years or thereabouts, it hath been confessed by all those that have argued in maintenance of his Majesty's right to impose, that there hath not been found one record that proves any one imposition to have been laid . . .

And if you please to give me leave to remember to you the passages of those times, you cannot but marvel that none of all those princes should so much as attempt to try the strength of this so beneficial a prerogative, so much practised by Edward III; and when you have heard their occasions and compared their other actions with their forbearance in this kind, you will, I think, conclude and say in your hearts, that surely none of all those kings had so much as any imagination that any such prerogative belonged unto them as to raise money at their pleasure, by laying a charge upon merchandizes to be exported or imported, without assent in parliament . . .

But now admitting that by the common law it had been clear and without question that the King might at his will have laid impositions and that also the same could have been clearly proved by the practice of the ancient kings, yet I affirm that so stands the law of England at this day by reason of statutes directly in the point, as the King's power, if ever he had any to impose, is not only limited, but utterly taken away . . . The first statute is in Magna Charta, cap. 30. I come to the second

statute against impositions which is the statute *de tallagio non concedendo*, touching the time of the making of which there is great variety of opinion ... The next statute against impositions is 25 Ed. I. [Confirmatio Cartarum] ... The next statute made against them is 14 Ed. III. (1) cap. 21 ...

In discovering the weakness of the reasons alleged in maintenance of impositions, I shall not greatly need to say anything more than hath been said ... Nevertheless I will in a few words recall to your memories their reasons; and in as few apply the answers to them ...

It hath been said that the old custom of a demi-mark upon a sack of wool must have his beginning either by the King's absolute power, or by a legal assent of the people, which can be nowhere but in parliament and cannot but appear of record; but because no such assent can be shown therefore they conclude that it began by the King's absolute power and infer that the same power remains still ... But this question, how began the first customs, is best answered by another question; how began the fine for purchase of original writs, the fine *pro licentia concordandi*, the certainty of prisage? ... In effect who reduced all the known grounds of the common law to that certainty that now they are? Because we cannot tell how or when they began, shall we therefore conclude that they began by the King's absolute power, and infer that by the same reason they may be changed at his pleasure? ...

The King may, say they, restrain the passage of merchants at his pleasure, which they prove by divers records ... Upon which they infer that if he may restrain a merchant that he shall not pass at all, he may much more so restrain him that he shall not pass except he pay a certain sum of money ... For my part I think that restraints in all these cases and of like nature are by the common law left to the King's absolute power ... But because he may restrain totally, therefore that he may give passage for money, is no good consequence, for in our case there is no restraint at all, but it is rather a passage for money. If there be just occasion of restraint the law giveth the King power to restrain. But when merchants may without hurt to the state have passage, as in our case, to enforce them to pay for that passage is in my opinion as unlawful as to

enforce any man whatsoever to pay for doing that which he may lawfully do . . .

The ports and haven-towns of England are, say they, the King's, and in regard thereof he may open or shut them upon what condition he pleases. I answer that the position that all the ports are the King's is not generally true, for subjects may also be owners of ports . . . But admitting the truth of the position, yet is the consequence as weak and dangerous as of any of the rest of their arguments. For are not all the gates of cities and towns and all the streets and highways in England the King's and as much subject to be open or shut at his pleasure as the ports are? . . . Doth it follow therefore that the King may lay impositions upon every man or upon all commodities that shall pass through any of these places? . . . If the King may not exact money . . . for passage through the gates of cities, much less may he for passage out at the ports, which are the great gates of the kingdom, and which the subject ought as freely to enjoy as the air or the water . . .

Another of their arguments is this. The King is bound to protect merchants from spoil by the enemy . . . It is reason therefore that his expense be defrayed out of the profit made by merchants . . . The consequence of this argument is thus far true. The law expects that the King should protect merchants: therefore it alloweth him out of merchandize a revenue for the maintenance of his charge, which is the old custom due, as at first I said, by the common law. But it is no good consequence that therefore he may take what he list, no more than he may at his pleasure increase that old revenue . . .

These are the chief reasons made in maintenance of impositions. The weakness of them and their dangerous consequence you cannot but perceive, for by the same reasons taxes within the land may be as well proved to be lawful. On the contrary part you have heard the reasons against impositions fortified by many records and statutes in the point. So as I conclude that impositions, neither in the time of war or other the greatest necessity or occasion that may be, much less in the time of peace, neither upon foreign nor inland commodities of whatsoever nature, be they never so superfluous or unnecessary, neither upon merchants strangers nor denizens, may be laid by

the King's absolute power, without assent of parliament, be it for never so short a time, much less to endure for ever, as ours . . . *State Trials*, ed. 1779, vol. xi. pp. 36–51.

(c) *Mr. Whitelocke's argument*, 1610[1].

. . . The case in terms is this. The King by his letters patents before recited hath ordained, willed and commanded, that these new impositions, contained in that book of rates, shall be for ever hereafter paid unto him, his heirs and successors, upon pain of his displeasure. Hereupon the question ariseth whether by this edict and ordinance so made by the King himself, by his letters patents of his own will and power absolute, without assent of parliament, he be so lawfully entitled to that he doth impose, as that thereby he doth alter the property of his subjects' goods, and is enabled to recover these impositions by course of law. I think he cannot; and I ground my opinion upon these four reasons.

1. It is against the natural frame and constitution of the policy of this kingdom, which is *jus publicum regni*, and so subverteth the fundamental law of the realm, and induceth a new form of state and government.

2. It is against the municipal law of the land, which is *jus privatum*, the law of property and of private right.

3. It is against divers statutes made to restrain our King in this point.

4. It is against the practice and action of our commonwealth . . .

For the first, it will be admitted for a rule and ground of state, that in every commonwealth and government there be some rights of sovereignty, *jura majestatis*, which regularly and of common right do belong to the sovereign power of that state, unless custom or the provisional ordinance of that state do otherwise dispose of them; which sovereign power is *potestas suprema*, a power that can control all other powers, and cannot be controlled but by itself. It will not be denied that the power

[1] This speech is printed in *State Trials* as Yelverton's, but is shown by the report in *Parl. Debates* (*C. S.*), p. 103, to have been Whitelock's; cf. Gardiner, *Hist. of England*, vol. iii. p. 77. The speech was delivered on July 2 (*C. J.* I. p. 445).

of imposing hath so great a trust in it . . . that it hath ever been ranked among those rights of sovereign power. Then is there no further question to be made but to examine where the sovereign power is in this kingdom; for there is the right of imposition.

The sovereign power is agreed to be in the King; but in the King is a twofold power; (the one in parliament, as he is assisted with the consent of the whole state; the other out of parliament, as he is sole and singular, guided merely by his own will. And if of these two powers in the King one is greater than the other, and can direct and control the other, that is *suprema potestas*, the sovereign power, and the other is *subordinata*.

It will then be easily proved, that the power of the King in parliament is greater than his power out of parliament, and doth rule and control it; for if the King make a grant by his letters patents out of parliament, it bindeth him and his successors; but by his power in parliament he may defeat and avoid it, and therefore that is the greater power. If a judgment be given in the King's Bench by the King himself, as may be and by the law is intended, a writ of error to reverse this judgment may be sued before the King in parliament . . . So you see the appeal is from the King out of parliament, to the King in parliament: . . . for in acts of parliament, be they laws, grounds or whatsoever else, the act and power is the King's, but with the assent of the Lords and Commons, which maketh it the most sovereign and supreme power above all and controllable by none. Besides this right of imposing, there be others in the kingdom of the same nature. As the power to make laws; the power of naturalization; the power of erection of arbitrary government; the power to judge without appeal; the power to legitimate, all which do belong to the King only in parliament . . .

It hath been alleged that those which in this cause have enforced their reasons from this maxim of ours, that the King cannot alter the law, have diverted from the question. I say under favour they have not, for that in effect is the very question now in hand. For if he alone out of parliament may impose, he altereth the law of England in one of these two main fundamental

points. He must either take his subjects' goods from them, without assent of the party, which is against the law, or else he must give his own letters patents the force of a law, to alter the property of his subjects' goods, which is also against the law . . . So we see that the power of imposing and power of making laws are *convertibilia* and *coincidentia*, and whosoever can do the one, can do the other . . .

And if this power of imposing were quietly settled in our kings, considering what is the greatest use they make of assembling of parliaments, which is the supply of money, I do not see any likelihood to hope for often meetings in that kind, because they would provide themselves by that other means . . .

The last assault made against the right of the kingdom, was an objection grounded upon policy, and matter of state; as that it may so fall out that an imposition may be set by a foreign prince that may wring our people, in which case the counterpoise is, to set on the like here upon the subjects of that prince; which policy, if it be not speedily executed but stayed until a parliament, may in the meantime prove vain and idle and much damage may be sustained that cannot afterwards be remedied. This strain of policy maketh nothing to the point of right. Our rule is in this plain commonwealth of ours, *oportet neminem esse sapientiorem legibus*. If there be an inconvenience, it is fitter to have it removed by a lawful means than by an unlawful. But this is rather a mischief than an inconvenience, that is, a prejudice in present of some few but not hurtful to the commonwealth. And it is more tolerable to suffer an hurt to some few for a short time, than to give way to the breach and violation of the right of the whole nation; for that is the true inconvenience. Neither need it be so difficult or tedious to have the consent of the parliament, if they were held as they ought or might be . . .

State Trials, ed. 1779, vol. XI. pp. 52–61.

2. Commission to levy Impositions, 1608.

James, by the grace of God King [&c.], to our right trusty and right well-beloved councillor Robert, Earl of Salisbury, our High Treasurer of England, greeting. It is well known

unto all men of judgment and understanding that the care imposed upon princes to provide for the safety and welfare of their subjects is accompanied with so great and heavy a charge as all the circumstances belonging thereunto can hardly fall under the conceit of any other than of those who are acquainted with the carriage of public affairs, and therefore this special power and prerogative (amongst many others) hath both by men of understanding in all ages and by the laws of all nations been yielded and acknowledged to be proper and inherent in the persons of princes, that they may according to their several occasions raise to themselves such fit and competent means by levying of customs and impositions upon merchandises transported out of their kingdoms or brought into their dominions either by the subjects born under their allegiance or by strangers, . . . as to their wisdoms and discretions may seem convenient, (without prejudice of trade and commerce), sufficiently to supply and sustain the great charge and expense incident unto them in the maintenance of their crowns and dignities; so we at this time, out of many just and weighty considerations as well for the exonerating of the crown of divers just and due debts as for the supply of many other our urgent and important occasions known to us and our council, and now particularly for the service of Ireland, . . . have been forced to resort to some such course of raising profit upon merchandise passing outward and inward as in former times hath been usual not only by our progenitors kings and princes of this realm but also often in practice among other nations . . . And although we have resolved to lay some kind of impositions both upon many foreign merchandises brought into this our realm and also upon divers native commodities and merchandises, . . . yet to the intent it may appear what care we have in all things of this nature to avoid the least inconvenience or grievance that may arise to our people, we have . . . given special charge in the levying of the same to forbear and exempt all such merchandises as are requisite for the food and sustenance of our people or which contain matter of munition necessary for the defence of our realms . . . or any other merchandises or materials fit and proper for the maintenance and enlargement of trade and navigation . . . Know ye therefore that for the considerations aforesaid . . . we have

appointed and ordained . . . that there shall be for ever from and after the 29th day of September next ensuing . . . levied, taken and received by way of imposition now newly set, over and besides the customs, subsidies and other duties heretofore due and payable unto us upon all merchandises . . . which . . . shall be either brought from any part beyond the seas unto this our realm . . . or which shall be transported or carried forth of the same, . . . just so much for the said new imposition as hath been and is now answered and paid unto us for the subsidy of the said merchandises, and neither more nor less . . .; excepting such merchandises only as in a schedule hereunto annexed are expressed, which are either altogether freed and exempted from payment of any of the said new impositions or else are appointed and set to pay the same in such proportion as is either more or less than the subsidy payable for the same, as in the said schedule is more plainly . . . expressed. Wherefore we do . . . command you that forthwith . . . you give order . . . unto all customers or collectors . . . and other our officers and ministers of all our ports . . . that they shall demand, levy and take of all Englishmen, aliens . . . and all persons . . . which shall bring into this our realm . . . or . . . carry forth . . . of the same . . . any goods, wares or merchandises, . . . so much for and by way of the said new imposition as hath been and now is answered and paid unto us for the subsidy of the said merchandises, . . . excepting [as before] . . .

[Dated] at Westminster, 28 July.

Pat. Roll, 6 Jac. I, part 30.

3. Levy of a Feudal Aid.

(a) *Order to the Chancellor to issue commissions*, 1612.

Whereas our eldest daughter Elizabeth hath long since accomplished the age of seven years, by reason whereof there is due unto us by the laws and statutes of this our realm of England reasonable aid to be had and levied of all our immediate tenants by knight's service and in soccage for her marriage: These are therefore to will and require you our Chancellor to cause to be made and sealed under our great seal

of England as well several commissions to be directed unto all the counties of this our said realm according to the form of a draught of a commission for that purpose to these presents annexed, as also several commissions for the Cinque Ports and for compounding with all the Lords spiritual and temporal of this our realm and with the masters . . . and other the heads of houses, halls and colleges of our Universities of Oxford and Cambridge, according to several draughts hereunto likewise annexed, changing such things therein as are to be changed, and to direct them to such commissioners as you with the Lord Privy Seal and our Chancellor of our Exchequer shall name and appoint, returnable at the days of the several draughts prefixed, and the same several commissions to renew to the same commissioners or any others according to your directions as often as need shall require, and also to name and choose any two of the said commissioners in every county respectively to be collectors for the same aid; and these shall be your sufficient warrant in that behalf.

Given under our signet at Woodstock the 30th day of August in the 10th year of our reign of England, France and Ireland, and of Scotland the six and fortieth.

Rymer's Fœdera, vol. XVI. p. 724.

(b) *Appointment of Commissioners to collect the aid*, 1612.

Rex etc., dilectis et fidelibus suis vice-comiti sui[1]
A. B. et C. D. necnon escaetori et feodariis suis in comitatu praedicto salutem. Sciatis quod, cum in statuto[2] in parliamento Domini Edwardi nuper Regis Angliae tertii apud Westm. anno regni sui 25 tento edito, inter caetera provisum fuisset et ordinatum quod rationabile auxilium ad primogenitam filiam Regis maritandam petatur et levetur secundum formam statuti inde prius editi et non alio modo: videlicet de quolibet feodo militari tento de Rege sine medio viginti solidos et non plus, et de viginti libratis terrae tentis de rege sine medio in socagio viginti solidos et non plus, prout in eodem statuto inter alia plenius continetur: Nos de fidelitate et provida circumspectione vestris in negotiis nostris agendis plurimum confidentes assigna-

[1] Blank left for the county.
[2] 25 E. III (5) 11: cp. Stat. Westm. I (3 Ed. I), § 36.

vimus vos, quatuor vel plures vestrum ac tenore praesentium damus vobis [etc.] plenam potestatem et authoritatem ad praedictum auxilium viginti solidorum, tam de singulis feodis militaribus de nobis sine medio quam de singulis viginti libratis terrae de nobis in socagio sine medio similiter ut praefertur tentis, de plure plus et de minore minus juxta ratum, in comitatu praedicto tam infra libertates quam extra, ad Elizabetham primogenitam filiam nostram, aetatis sexdecim annorum et amplius jam existentem, brevi (Deo dante) maritandam levandum, ita quod omnes denarios de auxilio praedicto provenientes habeatis ad scaccarium nostrum die Jovis proximo post crastinum Purificationis Beatae Mariae proximum futurum, illi vel illis cui vel quibus denarios illos liberari mandaverimus liberandos.

Ed ideo vobis [etc.] mandamus quod, habita deliberatione plenaria super feodis et partibus feodorum ac terrarum praedictorum in comitatu praedicto, infra libertates et extra, per inquisitiones distincte et aperte quotiens opus fuerit capiendas vel alias per viam compositionis pro nobis et in nomine nostro cum hujusmodi tenentibus nostris in ea parte fiendae et aliis viis et modis legitimis quibus pro acceleratione praemissorum vobis videbitur expedire, ad auxilium praedictum in comitatu praedicto levandum et colligendum circa praemissa diligenter intendatis ac ea faciatis et expleatis in forma praedicta, habentes debitam considerationem instructionum nostrarum quas pro vestra meliore et pleniore directione manibus aliquorum sex vel plurium consiliariorum nostrorum signatarum vobis una cum hac nostra commissione mitti fecimus . . .

Et tu praefatus vicecomes venire facias coram vobis [etc.] quotiens necesse fuerit tot et tales probos et legales homines de balliva tua tam infra libertates quam extra per quos praemissa expediri et rei veritas in hac parte melius sciri poterint et inquiri.

Damus nihilominus vobis A. B. et C. D. duobus commissionariis tantum authoritatem et potestatem colligendi et recipiendi omnes et singulas pecuniarum summas modo et forma praedictis levandas et ad diem et locum et personas ad hoc assignatas vel assignandas solvendi, ac ideo tenore praesentium vos omnes alios commissionarios de praedictis pecuniis sic ut

praefertur levandis et colligendis pro nobis, haeredibus et successoribus nostris exoneramus et acquietamus imperpetuum, aliquo in praemissis contento in contrarium non obstante.

Rymer's Fœdera, vol. XVI. p. 724.

(c) *Appointment of Commissioners to compound for the aid*, 1609[1].

Rex etc. praedilecto et fideli consiliario nostro Thomae Domino Ellesmere Cancellario nostro Angliae [et aliis] salutem.

Sciatis quod, cum in statuto [etc. as in preceding writ]; cumque separales commissiones nostrae de mandato nostro nuper emanarunt in singulos comitatus nostros . . . ad levandum et colligendum auxilium praedictum . . .; unde nobis per duos de privato concilio nostro humillime supplicatum est quod, cum tam ipsi quam caeteri praelati, domini, magnates et proceres hujus regni nostri Angliae habent et possident diversas terras infra diversos et separales comitatus, . . . nobis placeret pro commodo et quiete ipsorum ac caeterorum dominorum [etc.] appunctuare et assignare aliquos duos fore commissionarios nostros ad componendum ex parte nostra cum eis ac cum aliis Dominis . . .: nos itaque . . . tenore praesentium damus vobis aut aliquibus quatuor vel pluribus vestrum (quorum vos praefatos Cancellarium nostrum Angliae aut Thesaurarium nostrum Angliae unum esse volumus) plenam potestatem . . . ad praedictos magnates . . . coram vobis . . . evocandi . . . et ad praedictum auxilium viginti solidorum . . . per viam compositionis . . . levandum et colligendum . . . , ita quod omnes denarios de auxilio praedicto per viam compositionis ut praefertur provenientes habeatis ad scaccarium nostrum die Jovis proximo post crastinum Sanctae Trinitatis proximum futurum, illi vel illis cui vel quibus denarios illos liberari mandavimus liberandos.

. . . . . .

[Dated 21 June, 1609.]

Rymer's Fœdera, vol. XVI. p. 678.

[1] This is the form of writ issued on the occasion of the levy of the aid for the knighting of Prince Henry in 1609, but the same procedure seems to have been followed in both cases.

4. Circular Letters for a Benevolence, 1622.

What endeavours his Majesty hath used by treaty and by all fair and amiable ways to recover the patrimony of his children in Germany, now for the most part withholden from them by force, is not unknown to all his loving subjects, since his Majesty was pleased to communicate to them in parliament his whole proceedings in that business: of which treaty, being of late frustrate, he was enforced to take other resolutions, namely, to recover that by the sword which by other means he saw no likelihood to compass. For which purpose it was expected by his Majesty that his people in parliament would (in a cause so nearly concerning his and his children's interest) have cheerfully contributed thereunto. But the same unfortunately failing, his Majesty is constrained, in a case of so great necessity, to try the dutiful affections of his loving subjects in another way, as his predecessors have done in former times, by propounding unto them a voluntary contribution. And therefore, as yourselves have already given a liberal and worthy example (which his Majesty doth take in very gracious part), so his pleasure is, and we do accordingly hereby authorize and require your lordships, as well to countenance and assist the service by your best means, in your next circuits, in the several counties where you hold general assizes, as also now presently with all convenient expedition to call before you all the officers and attorneys belonging to any his Majesty's courts of justice, and also all such others of the houses and societies of court or that otherwise have dependence upon the law, as are meet to be treated withal in this kind and have not already contributed; and to move them to join willingly in this contribution in some good measure, answerable to that yourselves and others have done before, according to their means and fortunes; wherein his Majesty doubteth not, but beside the interest of his children and his own crown and dignity, the religion professed by his Majesty and happily flourishing under him within this kingdom (having a great part in the success of this business) will be

[1] This letter was sent 'to the Justices of the Courts at Westminster and to the Barons of the Exchequer,' and letters to the same effect to the Sheriffs, the Justices of the Peace, &c.

a special motive to incite and persuade them thereunto. Nevertheless, if any person shall, out of obstinacy or disaffection, refuse to contribute herein proportionably to their estates and means, you are to certify their names unto this board.

And so recommending this service to your best care and endeavour, and praying you to return unto us notes of the names of such as shall contribute and of the sums offered by them, we bid [&c.]. *Rushworth*, vol. I. p. 60.

[Similar letters were sent to the Archbishop of Canterbury and the Bishop of Lincoln, Lord Keeper, for circulation among the bishops, and were circulated with the following addition.]

Your Lordship by these letters may see how far it concerneth his Majesty in honour and the realm in safety, that the patrimony of the King's children should be recovered again by force of war, since it cannot be obtained by treaty . . . We therefore, who upon the receipt of these his Majesty's letters have met together and duly considered what was most convenient to be done, have resolved that 3*s.* 10*d.* in the pound is as little as we can possibly offer towards so great an enterprise, yet hoping that such as be of ability will exceed the same. You shall therefore do well by all forcible reason, drawn from the defence of religion and justice, to incite all your clergy . . . as also the lecturers and licensed schoolmasters within your diocese, that with all readiness they do contribute towards this noble action. And whereas there be divers commendataries, dignitaries, prebendaries and double-beneficed men that have livings in several dioceses, we hold it fit that for every one of these within your Lordship's diocese the contribution be rateable, so that the monies in such sort to be given may be brought to London by the 10th day of March next, to be delivered to the hands of such receivers as for that purpose shall be appointed. And to the end that true notice may be taken of such as are best disposed to this so good a service, we expect that your Lordship send up to the Archbishop of Canterbury the several sums and names of all those who contribute; and lastly . . . that you cause the preachers within your diocese in a grave and discreet fashion to excite the people

that, when occasion shall serve, they do extend their liberalities to so Christian and worthy an enterprise . . .

From Lambeth, 21 Januarii, 1621.

G. CANTUAR.
Jo. LINCOLN. C. S.
[and twelve other bishops.]

Cardwell, Docum. Annals, vol. II. p. 141.

IV.—JUDICATURE.

1. COMMISSION OF OYER AND TERMINER, 1607.

Jacobus dei gratia Angliae, Scotiae, Franciae et Hiberniae Rex, fidei defensor, etc., praedilecto et fideli consiliario suo Thomae domino Ellesmere Cancellario suo Angliae, ac carissimis consanguineis et consiliariis suis Thomae Comiti Dorset Thesaurario suo Angliae, Carolo Comiti Nottingham magno Admirallo suo Angliae, ac etiam carissimis consanguineis suis Henrico Comiti Kanciae, Roberto Comiti Sussexiae, ac carissimo consanguineo et consiliario suo Roberto Comiti Salisbury principali Secretario suo, necnon praedilectis et fidelibus suis Thomae domino Delaware, Edwardo domino Morley, Johanni domino Lumley, Roberto domino Riche, Johanni domino de Hunsdon, Johanni domino Petre, ac dilectis et fidelibus suis Jacobo Altham militi uni Baronum Scaccarii sui, Johanni Croke militi uni servientium suorum ad legem, Edwardo Fenner militi uni Justiciariorum suorum ad placita coram nobis tenenda assignato, Ricardo Lewkenor militi Justiciario suo Cestriae, Edwardo Carie militi magistro jocalium suorum [also to thirty-two knights (including the Attorney of the Duchy of Lancaster, a Master in Chancery, and a Serjeant at Law) and eleven Esquires], salutem.

Sciatis quod assignavimus vos et tres vestrum quorum aliquem vestrum vos praefate Jacobe Altham et Johannes Croke unum esse volumus, Justiciarios nostros ad inquirendum per sacramentum proborum et legalium hominum de comitatibus nostris Kanciae, Sussexiae, Surreiae, Hertfordiae et Essexiae ac in comitatu civitatis Cantuariae et eorum quolibet, ac aliis viis

modis et mediis quibus melius sciveritis aut poteritis, tam infra libertates quam extra, per quos rei veritas melius sciri poterit et inquiri, de quibuscunque proditionibus, misprisionibus, proditorum[1] insurrectionibus, rebellionibus, murdris, feloniis, homicidiis, interfectionibus, burgulariis, raptibus mulierum, congregationibus et conventiculis illicitis, verborum prolationibus, coadunationibus, misprisionibus, confederationibus, falsis allegancciis, transgressionibus, riotis, routis, retentionibus, escapiis, contemptibus, falsitatibus, negligentiis, concelamentis, manutenenciis, oppressionibus, cambipartiis, deceptionibus et aliis malefactis, offensis et iniuriis quibuscunque, necnon accessariis eorumdem infra comitatus et civitatem praedictos aut eorum aliquem, tam infra libertates quam extra, per quoscunque et qualitercunque habita, facta, perpetrata sive commissa, et per quos vel per quem, cui vel quibus, quando, qualiter et quomodo, ac de aliis articulis et circumstantiis premissa et eorum quodlibet sive eorum aliquos vel aliqua qualitercunque concernentibus, plenius veritatem; et ad easdem proditiones et alia praemissa (hac vice) audiendum et terminandum secundum legem et consuetudinem regni nostri Angliae. Et ideo vobis mandamus quod, ad certos dies et loca quos vos vel tres vestrum quorum [etc. as before] ad hoc provideritis, diligenter super praemissis faciatis inquisitiones, et praemissa omnia et singula audiatis et terminetis, ac ea faciatis et expleatis in forma praedicta, facturi inde quod ad justiciam pertinet secundum legem et consuetudinem regni nostri Angliae; salvis nobis amerciamentis et aliis ad nos inde spectantibus. Mandavimus enim vicecomitibus nostris comitatuum et civitatis praedictorum, quod, ad certos dies et loca, quos vos vel tres vestrum quorum [etc. as before] eis scire feceritis, venire faciant coram vobis vel tribus vestrum quorum [etc. as before] tot et tales probos et legales homines de ballivis suis, tam infra libertates quam extra, per quos rei veritas in praemissis melius sciri poterit et inquiri. In cujus rei, etc. Teste me ipso apud Westm. vicesimo die Februarii anno regni nostri Angliae, Franciae et Hiberniae quarto et Scotiae quadragesimo.

Pat. Roll, 4 *Jac. I*, part 1[d].

[1] 'prodicionum' in the roll.

2. Commission of Gaol-delivery, 1607.

Jacobus, Dei gratia, etc. dilectis et fidelibus suis Jacobo Altham militi uni Baronum scaccarii sui, Johanni Croke militi uni servientium suorum ad legem, Henrico Glascock, Johanni Sorrell, Johanni Meade et Edwardo Rowlands salutem. Sciatis quod constituimus vos, quinque, quatuor, tres et duos vestrum, quorum aliquem vestrum vos, praefate Jacobe Altham et Johannes Croke, unum esse volumus, justiciarios nostros ad gaolam nostram castri nostri Cantuariensis necnon ad gaolam nostram de Maidstone de prisonibus in eisdem existentibus deliberandam. Et ideo vobis mandamus quod ad certum diem quem vos [etc. as before] ad hoc provideritis conveniatis apud Roffen. ad gaolas illas deliberandas, facturi inde quod ad justiciam pertinet, secundum legem et consuetudinem regni nostri Angliae; salvis nobis amerciamentis et aliis ad nos inde spectantibus. Mandavimus enim vicecomiti nostro Kanciae quod, ad certum diem quem vos [etc. as before] ei scire feceritis, omnes prisones earumdem gaolarum et eorum attachiamenta coram vobis [etc. as before] ibidem venire faciat.

In cujus rei etc. Teste rege apud Westm. vicesimo die Februarii, anno regni sui quarto et quadragesimo.

Pat. Roll, 4 Jac. I, part 1[d].

3. Instructions for the President and Council of the North, 1603.

Instructions for our right trusty and well-beloved Edmond Lord Sheffield, President of our Council in the north parts and Knight of our Order of the Garter, and for all other hereafter named being appointed by us to be of the said Council, to be observed by them according as the same be hereafter declared. Given the 22nd of July in the year of [our] reign of England, France and Ireland the first and of Scotland the six and thirtieth.

I. First, we desiring the quiet government of our people and subjects of the north parts of this our realm of England, and for the good and speedy administration of justice to be there had between party and party, and intending to continue in the

same parts our right honourable Council called our Council in the North, and we knowing the approved wisdom and experience of you our right trusty and well-beloved Edmond Lord Sheffield, and upon divers other considerations moving us at this present time to have your service in those north parts with your earnest and assured affection to the execution of justice, have appointed you to be Lord President of the said Council, with power and authority to call together all such persons as be appointed to be of the said Council at all times when you shall think expedient, and otherwise by your letters to appoint them to do such things for the furtherance of justice and for the punishment of evil doers as by the advice of such of the said Council as then shall be present with yourself shall be thought meet for the furtherance of our causes and for the due administration of justice between ourselves [and others].

II. Further, that all due care and good means may be had for the advancement of God's true religion and service in those parts, we do require you upon conference with the rest to take good and speedy order that every bishop, archdeacon or other commissary or official in his particular jurisdiction do in their several visitations by oath of side-men take presentment of the number of recusants and truly certify them to you our President and Council, and in like manner we would that the justices of assize should give charge to the justices of the peace themselves to make enquiry and presentment of the said recusants and to certify the number of them as they shall have knowledge of them. Also that no person committed or enjoined to punishment by authority of the High Commission be discharged but with consent of all such of the commissioners as were present or consenting to their commitment or punishment or with [consent of] the greatest number, and upon good assurance for payment to be given of such sums as are imposed upon them.

III. Lastly, that every six months there be due certificates returned into our exchequer of all bonds forfeited and of all fines imposed, and this return to be under the hands of six of the commissioners, whereof two of them to be some of her Council there bound to attendance.

IV. We must especially remember you that, where the authority which we have given to you and that council for

hearing and determining causes of justice between party and party had his original institution to ease our loving subjects from charge and toil of coming up to our courts of justice at Westminster, you will take good care according to the trust which we have reposed in your integrity and upon justness of conscience by all means to give them speedy despatch without driving them to needless attendance, and also to take good heed that no such causes may be retained there which are not fit for that place, nor any man be there protected under favour or partiality to the prejudice or injury of any other.

V. And further we do give unto you the said Lord P. a voice negative in all counsels, and yet not doubting but that all things shall be debated at good length for the understanding of the perfect truth; . . . and yet nevertheless, because in consultations authority should not prejudice the wisdom of others, we mean and so doubt not but that you our President would [take care] that your negative voice in counsel should not take place except some one of the councillors which be appointed to daily attendance and have fees therefore allowed shall be of the same opinion, or else except some two of the rest of the councillors not appointed to daily attendance shall be of the same opinion with you . . .

VI. [Lord President and Council to show mutual respect and consideration.]

VII. And to the intent that the said Council thus established for the above said purposes may be furnished with such numbers of assistants to you the said Lord P. as be of wisdom, experience, good gravity and truth meet to have the names of councillors, we . . . have elected these persons whose names ensue hereafter to be our councillors joined in the said Council in the north parts, that is to say, Matthew Ld. Archbp. of York, Gilbert Earl of Shrewsbury, George Earl of Cumberland, two of the Privy Council and Knights of our Order of the Garter, the Bishops of Durham and Carlisle for the time being [and forty others, including the Deans of York and Durham, the two Justices of Assizes in the north, and one of the Barons of the Exchequer.] And lest it should seem that by nominating so many to be of our Council there the authority of those who are of our Council in ordinary and have fee of us for their attend-

ance (being persons learned in the laws) should be too much depressed in their service with you in Council, our pleasure therefore is that in the sittings and meetings in Council they who have fee of us shall be placed next unto Barons and Barons' sons and before all others.

VIII. And we do appoint the said John Herbert knight to be the secretary of the said Council, and the said John Ferne to exercise the place of secretary there in the absence of the said John Herbert, and to keep our signet with the said Council . . .

IX. And our pleasure is that the said Lord P. and two of the Council bound to continual attendance, besides the secretary of the said Council, shall be sworn and be Masters of the Chancery, that they may take recognizance for the peace, for appearances and performance of orders [&c.] and otherwise as shall be thought convenient by the Lord P. or Vice-President . . .

X. [Councillors to be diligent and impartial in the executing of their commission.]

XI. And forsomuch as it shall be very chargeable to divers of the said commission if they should continually attend upon the Lord P. and Council, . . . we therefore ordain that the Lord Archbp. of York, the Earls of Shrewsbury and Cumberland, the Bishops of Durham and Carlisle [and thirty-four others named] shall not be bound to continual attendance, but to go and come at their pleasures unless they be required by the said Lord P. to remain with him for a time for some great and weighty causes which they shall then accomplish, and yet it shall be well done for the said Lord P. upon a general conference at the end of every sessions to limit certain times, places and numbers of the said councillors not bound to continue attendance to attend in such sort and manner as the place of Council may be at all meet times furnished and yet with the least discommodity to the said councillors, . . . reserving nevertheless special authority to the Lord P. to send for any of them whensoever he shall think meet.

XII. And because it shall be convenient that a number shall be continually abiding with the Lord P. with whom he may consult and commit the charge in hearing of such matters as shall be exhibited unto them for the more expedition of the

same, we do chiefly ordain that Sir Edward Stanhope, Sir Thomas Hesketh, Charles Hales, Samuel Bevercoats and John Ferne shall give their attendance upon the said Lord P. continually, or at the least one of them with the secretary, and that none of them appointed to continual attendance with the said Lord P. shall part at any time from him without his special licence and the same not to exceed six weeks at one season, without great sickness or other urgent cause: and if any of them shall not conveniently for their own private affairs be able to attend as the said Lord P. shall require them, the fee of such person shall be defalked and allowed to some other of the Council which shall be thought meet and shall attend at the appointment of the said Lord P. and the rest of the Council which be bound to attendance.

XIII. [Of the sum of £1000 a year with other allowances for the diet of the Lord President and Council; of the steward of the Lord President's household, &c.] . . . And because we mean that this allowance shall be both for our honour and service well employed we would that the Lord P. should keep house either at York or some other meet place nigh thereunto, and at Newcastle or Carlisle or other place in the north beyond the city of York when time shall require . . .

XIV. [Of the salaries of councillors bound to continue in attendance, &c.]

XV. [Of the serjeant at arms.]

XVI. [Salaries and stipend for the Lord P.'s household to be paid half yearly from the revenues of royal lands in the north parts.]

XVII. And to furnish the said Lord P. and Council in all things with authority sufficient to execute justice as well in causes criminal as in matters of controversy between party and party, we have commanded and appointed two commissions to be made out under our great seal of England by virtue whereof they shall have power in either case to proceed as the matters occurrent shall appear and require.

XVIII. And further we give full power to the said Lord P. and Council as well to punish such persons as in anything shall neglect, contemn or disobey their commandments or the process directed from them, as all other that shall speak seditious words,

invent rumours or commit such like offences either against us, the Queen our wife, the Prince or any other of our children or any of the nobility of our realm or any placed by us in our Privy Council or in that Council there (not being treason), whereof any inconvenience might grow, by pillory, cutting off their ears, wearing of papers, imprisonment and fine and otherwise at their discretions, foreseeing that when certain punishments be limited by laws and statutes that the same be followed.

XIX. And the Lord P. or V. P. may appoint counsellors, attorneys and process for any poor person so as their cause may proceed without their charge.

XX. And we give full power unto the said Lord P. and Council being with him or four of them at the least, whereof the Lord P., Sir John Herbert, the two Justices of Assize for the time being, Sir Ed. Stanhope, Sir Tho. Hesketh, Charles Hales, Samuel Bevercoats or John Ferne to be two, with the Lord P. or V. P. to assess fines of all persons that shall be lawfully convicted or indicted for any riot (how many soever they be in number) or other offence before them, unless the matter of such riot or offence shall be thought to them of such importance as the same shall seem meet to be signified unto us to be punished in such sort by the order of the Privy Council attendant upon our person as the same may be noted for an example to others.

XXI. And we give full power and authority to the said Lord P. and Council or to three of them at the least, whereof the Lord P. always to be one or [the] V. P. and one other bounden to continual attendance to be two, to award and assess costs and damages as well to the plaintiffs as to the defendants by their discretions, and also to award execution of their decrees and orders and to punish the breakers thereof being parties to the same according to their discretions as heretofore hath been used; all which decrees and orders the secretary shall be bound incontinently upon the promulgation of the same to write or cause to be written in one fair book which shall remain in the hands and custody of the said Lord P. at some convenient place at York, in such sort as the same may be at all times well kept and preserved under lock and key . . .

XXII. [Of the fees payable for recognizances, decrees, attachments and other processes.]

XXIII. [Of the appointment of an examiner or examiners of witnesses and the fees payable to the same.]

XXIV. And for the more certain and brief determination of matters in those parts we do by these presents ordain the said Lord P. and Council shall keep four general sittings or sessions in the year, the same to be kept in such place and places and at such and for so long time as the said Lord P. for the time being and two of the attendants shall think meet, the number of causes considered and other present occasions respected, except they shall be otherwise especially commanded.

XXV. And forasmuch as a great number of our tenants and farmers have been heretofore retained with sundry persons by way [of] livery, badge or cognizance, by reason whereof when we should have had their service they were rather at commandment of other men than (according to their duty of allegiance) to us of whom they have their living, our pleasure and express commandment is that none of the said Council or others shall by any means retain or entertain any of our tenants or farmers, of what degree soever the same be, in such sort as they or any of them shall account themselves bound to do him or them any other service than as to our officers having office or being appointed in service there, unless the said farmers and tenants shall be continually attendant and uprising and downlying in the house of him that shall so retain them: and the said Lord P. and Council shall in every general sitting give special notice and charge that no nobleman or other shall retain any of the said tenants or farmers otherwise than is aforesaid, charging all the said farmers and tenants, upon pain of forfeiture of their farms and holds and incurring our further displeasure and indignation, in no wise to agree to any retainer otherwise than is aforesaid, but wholly to depend upon us and upon such as we have or shall appoint to be our officers, rulers and directors of them: and for the better execution hereof the said Lord P. and Council shall first provide to be clear of this crime themselves and cause inquisition to be made and verdicts to be taken thereof or otherwise information to be made by our attorney, and upon due examination thereof the offenders to be duly punished as the cause shall require, at the discretion of the

Lord P. or V. P. and two of the Council bounden to continual attendance.

XXVI. And our further pleasure is that in every such sitting and in all places where the said Lord P. and Council shall have any notable assembly before them they shall give straight charge and commandment to the people to conform themselves in all things to the observation of such laws, ordinances and determinations as be or shall be made . . . by us or our Privy Council [or] our Commissioners for Causes Ecclesiastical or by order of our Parliament, touching religion and the Divine Service set forth; and for good and due execution thereof they shall be aiding and assisting to the Archbishop of York, the other bishops and ecclesiastical ministers within every their jurisdiction.

XXVII. Also our express pleasure and commandment is that the President and Council with all their policies . . . shall endeavour to repress all Popish priests, seminary priests and other seducers of our subjects, and shall within the limits of their authority give warrant and direction under our signet there for the search of any house or places where any such persons shall be suspected to be received or remain or abide, and also shall in their gaol-delivery before them to be held put in execution with all severity [the] laws made and ordained against priests, seminaries and their receivers . . . and against recusants: and for a better discovery shall call before them all such persons as shall be suspected to have contracted clandestine and secret marriage by Popish priests or secretly and unlawfully to have baptised their children after the Popish manner, and their offences (not being treason or felony) in their sessions and sittings, after due proof hereof had by examination of witnesses or other means, to punish by fine and imprisonment at their discretions; and also shall in their sessions and sittings, upon information and complaint unto them made, by examination of witnesses or other good proof according to their discretions, hear and determine and punish severely all disorders and contempts made of any warrants and directions given for the searching out and apprehending of such seducers or offenders and their receivers, aiders and maintainers.

XXVIII. Further our pleasure is that the said Lord P. and Council shall from time to time make diligent and effectual

inquisition of the wrongful taking in of commons and other grounds and the decay of tillage and of towns or houses of husbandry contrary to the laws, and of all offences against one Act entitled an Act against the decaying of towns and houses of husbandry and against one Act entitled an Act for the maintenance of husbandry and tillage made in the 39th year of Queen Elizabeth [39 & 40 Eliz. 1 and 2]; and leaving all respects and affections apart they shall take such order for redress of enormities used in the same as the poor people be not oppressed and forced to go begging, but that they may live after their good sorts and qualities: and for the better execution hereof they shall (if they find any notorious malefactor in this behalf of any great wealth) cause the extremity of the law to be executed against him publicly, that the example of some notable punishment may make others afraid to do the like; and yet in this process such discretion must be used as the common disordered people do not thereby take any courage to meddle therein by any violence of themselves, but to expect the redress of our authority and laws.

XXIX. And if it shall happen that the Lord P. and Council shall vary in opinion for the law or for any order to be taken in the matter or fact before them, if the matter or case touch or concern the law then the opinion of the greater or more part of the number of councillors appointed to continual attendance being there present shall take place and determine the doubt: and if there be on both parts an equal like number of councillors bound to continue in attendance, then that part whereunto the Lord P. or V. P. in his absence shall agree shall be followed and take place: and if the case and matter be of importance and the question and doubt be of the law, then the Lord P. and Council shall signify the cause and matter to the justices of assize or to the judges sitting at Westminster, who shall with diligence advertise them again of their opinions therein: and if the matter be of great importance and not a question of the law, and order [be] necessary to be taken upon the fact, then the said Lord P. and Council shall in that case advertise us or our Privy Council attendant upon our person of the same, whereupon they shall have knowledge again how to use themselves in that behalf.

XXX. And the said Lord P. and Council shall have power and authority upon complaint of spoil extortions and oppressions or violent and unlawful expulsions to examine the same speedily and shall take order that the party grieved may have due and undelayed remedy and restitution, and for want of ability in the offenders therein they may be punished otherwise corporally to the example of others.

XXXI. And if any man of what degree soever he be shall, upon good, lawful and reasonable cause or matter so appearing to the Lord P. and Council, by information or otherwise demand surety of peace or justice against any great lord or nobleman of the country, the said Lord P. and Council shall in that case grant the petition of the poorest man against the richest or against the greatest lord, being of the council or other, as they shall grant the same (being lawfully asked) against men of the meanest sort, and that letters or process of *supersedeas* may be awarded upon bonds or recognizances for the peace or good behaviour as there hath been accustomed.

XXXII. And our pleasure is further that if any person dwelling or resiant within the limits of this commission, against whom complaint shall be made for any extortion, misdemeanour or other offence or cause, and that process hath been directed forth under our signet there and been delivered unto the said party so offending for his personal appearance to answer the matter, whereof good proof to be made before the Lord P. and Council, and the said person so offending neither for the said process nor yet for any attachment, proclamation of allegiance nor other process of rebellion will come in to make answer, but absent himself or fly out of the limits of this said commission, then the said Lord P. or V. P. or three of the Council (whereof two of them to be of those bounden to continual attendance) shall have full power to send forth new attachments or other process with special letters declaring the offence to the sheriff of that county where he is fled and doth remain, to apprehend and attach him; and if he shall . . . keep himself secret in the same county or fly out of the county . . . in such secret sort that process cannot be served, then upon return or certificate thereof the Lord P. or V. P. and Council as is aforesaid shall have not only full power to sequester the profits of the lands,

goods and chattels . . . but also to proceed to the hearing examination and determination of the said matter, . . . and further to assess such fines of the said disobedient person . . . as to the discretion of the said Lord P. [etc.] shall seem convenient: and after such sequestration our pleasure is that there shall be process of proclamation two general market days in the market town next to the said habitation, to this effect: that the said offender or some lawfully authorized for him shall the first day of the next sitting of the said Council after the return of the said sequestration appear before the said Lord P. [etc.] and answer the matters against him, and take order as appertaineth for all offences . . . and amercements, or otherwise the profits of his lands and goods to be taken to our use until such offender shall appear and submit himself . . .; and further our pleasure is that after such sequestration the Lord P. [&c.] shall have full power . . . to examine the matters complained upon, and if they by proofs, witnesses or otherwise can conveniently come to the knowledge thereof, then to take order and to see the plaintiff satisfied according to justice . . .

XXXIII. And for so much as it may chance the Lord P. to be sometimes disabled that he shall not be able to travel for the direction of such matters as then shall occur, or shall be called to the Parliament or otherwise employed in our affairs . . .; therefore to the intent that the said Council may be . . . full and perfect, and that there may be at all times in the same one person to direct all things in such order and form as the Lord P. might do, . . . our pleasure is that when the said Lord P. shall be so diseased, absented or letted as aforesaid, . . . that then he shall name and appoint such a meet person being of the council as by him the Lord P. shall be thought meet during his absence; and we during the said time do give unto the person so appointed the name of Vice President . . .

XXXIV. [Respect to be shown to the V. P. as to the Lord P.]

XXXV. [Of the cancelling of recognizances.]

XXXVI. We also further ordain that the said Lord P. or V. P. and two of the Council bound to continual attendance shall, as they see occasion, make process against any disobedient person upon pain of allegiance and by proclamation of rebellion

in such sort as is used in our Court of Chancery, and shall also by imprisonment, fine, amercement or otherwise punish all persons for contempts, disobediences, deceits, giving of false witness, wilful perjury, forging of false deeds, maintenance and all other misdemeanours against our laws that be committed within the limits of the aforesaid commission, and shall also by fine, amercements or otherwise punish all sheriffs, mayors, bailiffs and all other officers and ministers that shall neglect their duties . . .

XXXVII. Our pleasure also is that the said Lord P. [etc.] shall once every year or oftener, as need shall require, call before them the justices of peace of the county of York and the city of York, and as they shall see cause likewise in all other shires within their commission when they shall sit in the said shires, to enquire and know of them the state of the countries and matters amiss and meet to be reformed, and thereupon to take order and give charge to the said justices for the amendment and reformation of things amiss; . . . and if any notable offence shall appear in any of the said justices of peace, then the Lord P. [&c.] shall take order by fine or otherwise for reformation thereof or else certify the same to our Council in the Star-Chamber and take bonds of the offenders for their appearance before the said Council in the Star-Chamber.

XXXVIII. And to the end that . . . the said suitors or any others whom our said President or Council shall by our process call before them may quietly have access and attend our said President and Council for justice and expedition of their suits . . . without any impeachment or molestation by arrests from any court of any city, town corporate or other inferior court or jurisdiction within the said limits of the said commission (which privileges are so incident to our high courts of justice at Westminster, that without the same in many cases they cannot administer our laws and give that relief to our subjects that is requisite), therefore our pleasure is that all our subjects as well in making their repair to our said P. and council, either to prosecute or defend any complaint or suit commenced, . . . as likewise during the time of their necessary abode or stay about the same and in their return home again, shall be privileged and discharged from all arrests by any process or warrants

from any of the said inferior courts . . . not being process or warrants for any treason, felony or of execution . . .

XXXIX. And we do further order that John Jackson, esquire, shall be an attorney for that Council in the north parts, and that he or any other one attorney there for the time being shall prosecute and set forth for us as well by way of information as by indictment before the Lord P. [&c.] . . . all offences and matters of treason, murder, felony, riot, force, breach of peace, and all other misdemeanours or offences touching the breach of any other laws for the good order and quiet of those north parts, and the said attorney shall procure forth process upon information before the said Council against all such as shall break or forfeit any recognizance or obligation taken by the Lord P. [&c.] or by any sheriff or other officers for any appearance before the said Council or for the peace or other cause . . . [the attorney to be bound with two sureties to render account of all monies received].

XL. [Of the attorney's salary.]

XLI. [Certificate of all monies received by the attorney to be sent in yearly to the Privy Council.]

XLII. [The Lord P. &c. may order the attorney to disburse money for certain purposes.]

XLIII. And further our pleasure is that the said Lord P. or V. P. and council shall aid, help and assist all the bishops, ordinaries and commissioners for matters of religion within the limits and jurisdiction of the said Council as well for the good observation and execution of all things set forth in the Book of Common Prayer and administration of the Sacraments and [in the] Injunctions, as also for the apprehension, correction and punishment of all such persons as shall contemn or disobey the same bishops [&c.]: and that the said bishops and ordinaries be assisted in the punishment of such as do daily marry unlawfully and against the law of God and the realm and of such other as notoriously live and continue in adultery to the slander and infamy of God's people.

XLIV. [Lord P. and three of the quorum may alter the fees of counsellors and attorneys practising before them.]

XLV. And further our pleasure is that when any persons in the counties of Northumberland, Westmoreland, Cumberland,

and the bishopric of Durham, or the towns of Newcastle, Carlisle or Berwick shall disobey any process directed from our said Council or any their orders and decrees . . . and cannot conveniently be apprehended or taken by the sheriffs or their officers, then the said Lord P. and Council shall write letters or direct process to the Lords Wardens of the Marches or to the Bishop of Durham or to his officers or to the chief officers of the towns and castles of Newcastle, Carlisle and Berwick . . . for the apprehension and order of the said persons . . .

XLVI. And our pleasure is that the Lord P. [&c.] shall admonish and give in charge to the Lords Wardens of the Marches of England against Scotland and all the justices of peace in the counties of Northumberland, Westmoreland, Cumberland and Durham to foresee that the towns, villages and farms be not there decayed or wasted nor the lands converted from tillage to pasture nor so taken from the houses that the tenants and farmers thereof cannot be able to keep horses or geldings for service and defence of the frontiers there as heretofore in times past they have been, for, that being suffered, the frontiers shall be much depopulated and made weak; wherefore our pleasure is that the same shall not be permitted, and that if any such defaults have been within forty years past the same to be amended and reformed with all speed and at the furthest within one year; and the Council shall for that purpose direct forth commissions at all times convenient, and not cease until some reformation be had according to one statute made in the 23rd year of Queen Elizabeth [23 Eliz. 4].

XLVII. And where in the time of the late Queen Mary a very good law [2 & 3 P. & M. 1. § 1] was established by Act of Parliament for the enclosure of divers grounds nigh the frontiers, we charge the said Lord P. and the whole council . . . to consult and determine by some good means how the same might be put in speedy execution . . .

XLVIII. Also whereas we perceive that this present mildness and favour doth much bolden the evil disposed, we earnestly require the said Lord P. [&c.] for some convenient season from henceforth to use entire direct severity against notable offenders and to punish them without long delay, not only by pain of body and imprisonment but also by good fines and amerce-

ments so as the opinion or report of severity in the beginning may work that by force which is and hath been long seen will not be obtained by favours and gentleness, as by good experience of the like in the parts of Wales much good and quiet hath there ensued and contrariwise much hurt hath thereof in those parts followed.

XLIX[1]. Finally considering that divers ill-affected persons have withdrawn themselves from their obedience and without license and contrary to the duties of their allegiance fled out of the realm and have attempted divers things against us and our realm their native country, we think it convenient that it be diligently considered by you our said P. and Council how and in what sort such occasions or any others like thereto may be avoided or prevented, either for devising of seeds of rebellion by false tales or reports, or by seeking through colour of rule and offices or by unlawful retaining of any of our tenants or subjects: and to that end we will that you cause inquisition to be made in sundry parts of those north parts where cause shall be of unlawful retaining of our subjects by any persons, and namely of them which have so withdrawn themselves or departed our realm.

L. You shall do well also to cause regard to be had of such persons as at any time have offended and have received their pardons in what sort they do carry themselves for avoiding of occasions of suspect, who if they live honestly and circumspectly are the more to be allowed and favoured. Like regard would be had to the friends and servants of such as have so withdrawn themselves or are fled out of the realm or that have suffered according to their deserts, that there be no resort unto them of suspected persons with messages to kindle any spark of new troubles . . .

LI. And forasmuch as all our said councillors and likewise all others which shall be hereafter appointed to be of our said Council in those north parts before their admittance into their several charges are to take their oaths as well of obedience to us as for their true and faithful service in the place of coun-

[1] 'All the articles following are new, and be not in the former instructions' (contemporary note in margin).

cillors . . . our pleasure is, that you the Lord P. shall cause them in your presence to take their said several oaths . . .

LII. [Proclamation to be made by the Lord Mayor and Sheriffs of York that the above commission has been issued.]

[Signed] Ro. Cecyll.

Exam. per Ed. Coke.

Concord. cum originali,

Jo. Ferne.

State Papers (*Dom.*) *James I*, ii. p. 74.

4. Instructions for the President and Council of Wales, 1617.

Instructions given by our most gracious sovereign Lord, James, by the grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c., to his right trusty and right well beloved, William Lord Compton, Lord President of his Council within his Majesty's dominion and principality of Wales and marches of the same, and to all hereafter mentioned and appointed to be of his said Council . . .

Signed by his Majesty at Theobald's the twelfth day of November in the year of his Majesty's reign of England, France and Ireland the fifteenth, and of Scotland the one-and-fiftieth, 1617.

I. First, his Majesty, much desiring the continuance of quietness and good government of his Highness' people and subjects within the said dominion and principality of Wales and the marches of the same, by the placing and continuance of a President and Council there, as heretofore hath been used for the good and indifferent administration of justice to his subjects of those parts, and for the good opinion by his Highness conceived in his right trusty and right well-beloved William Lord Compton, . . . by these presents doth appoint the said William Lord Compton to be president of that Council during his Majesty's will and pleasure, and therefore doth allow to him or to his vice-president for the time being the authority to call together all such as be . . . of the said Council at all times when it shall be thought convenient, or otherwise by letters to appoint them and every of them to do all such things for the advancement of justice and for the suppressing and punishing of male-

factors and for the furthering of his Majesty's affairs, according to these instructions, as shall be requisite or convenient . . .

II. And to the intent the Lord President thus established may at all times be furnished and assisted with a convenient number of men of understanding, experience and discretion and thought meet to have the names of his Majesty's councillors, his Majesty upon good advice and deliberation hath elected these persons whose names ensue hereafter to be of the said Council with the said Lord President: That is to say, Sir Francis Bacon, knight, Lord Keeper of the Great Seal of England; Thomas, Earl of Suffolk, Lord Treasurer of England; Edward, Earl of Worcester, Lord Privy Seal; William, Earl of Pembroke, Lord Chamberlain of his Majesty's household [and 78 others [1]]: all which councillors his Highness doubteth not but every of them will be at all times diligent and willing to do unto his Majesty such service to their uttermost endeavours as shall be to his Highness' contentation and to the discharge of their duties . . .; and his Majesty's pleasure is that every of the said councillors shall have voice and place in all sittings and councils according as they are before in these instructions named, saving to the Chief Justice of Chester his place as anciently hath been used.

III. And because it is expedient a convenient number of the said councillors both of learning and experience be continually resident at the said Council for the assistance of the Lord President or Vice-president for the time being, . . . his Majesty's pleasure is . . . that the said Sir Thomas Chamberlain, knight, Chief Justice of Chester, Sir Henry Townshend [2], knight, Sir Francis Ewre [3], knight, and Nicholas Overbury [4], esquire, or three of them at the least (whereof the said Chief Justice of Chester to be one) shall give their continual attendance at the said Council for the whole terms, and two of them at the least for the times of the vacation between the terms . . ., saving for such times as any of them shall ride their circuits in the vacations between the terms . . .; in consideration of which service

[1] The list includes seven earls, one viscount, nine bishops, three temporal lords, and several judges.
[2] Second Justice of Chester.
[3] A Justice of North Wales.
[4] A Justice of South Wales.

and residency to be thus accomplished for his Majesty . . . his Majesty . . . doth by these present instructions allow unto the said Chief Justice all such fees and allowances as have been anciently belonging to the Chief Justice of Chester for the time being . . . and over and besides that to the said Chief Justice of Chester the sum of £100 by the year of late years added . . .; and to the said Sir Henry Townshend, knight, Sir Francis Ewre, knight, and Nicholas Overbury, esquire, to every of them the sum of one hundred marks by the year . . .; and for the better assistance of the said Lord P. or V. P. for the time being and of the said council, when it shall seem convenient, the said Lord P. or V. P. for the time being or in their absence or vacancy the Chief Justice of Chester and council attending may call unto him or them any such other of the council learned as he or they shall think convenient, and the same councillors having no fees certain by these instructions shall, for so many days as they shall make their abode, receive the fees severally per poll of 6*s.* 8*d.* per diem.

IV. And his Majesty straightly commandeth that none . . . of his Majesty's Council in the said principality and marches of Wales shall practice or give counsel in any cause or suit in that court . . .

V. And his Majesty's pleasure is, that the said Council shall hold their terms and sittings at the most meet places for suitors to resort unto, that is to say in the winter time the sessions and sittings for Michaelmas term and Hilary term, with the time of vacation between those terms, shall be kept at Ludlow . . ., and for the rest of the year the abode of the Lord P. [&c.] may be at the said town of Ludlow . . . or elsewhere within the limits of their jurisdiction as shall be by them thought meetest for suitors to resort unto.

VI. And the King's Majesty's pleasure is, that the said Lord P. [&c.] by all lawful ways and means they can shall . . . examine, search out and repress all treasons, petty treasons, murders, rapes, burglaries, robberies and other felonies, and the accessories to the same, which . . . shall arise within the dominion, principality and country of Wales, and the marches of the same, and the counties of Gloucester, Worcester, Hereford, Salop and Monmouth, the liberties of his Majesty's Duchy of

Lancaster within the counties aforesaid, the cities of Gloucester, Worcester and Hereford, the town of Haverford West, the county of the city of Gloucester and the county of the town of Haverford West, and within all the counties, cities, towns, franchises and liberties within the limit aforesaid; and shall apprehend all such offenders, their confederates and receivers, and them commit to prison there to remain until they shall be lawfully . . . delivered . . .

VII. And his Majesty's pleasure is, that his solicitor for the said Council shall be continually there resident, and shall write and take examinations . . . and shall attend with the said examinations at all sessions and assizes as occasions shall require . . .

VIII. And . . . his Highness doth by these presents give full power and authority to the said Lord P. [&c.] or any three of them at the least, whereof the Lord P. or V. P. for the time being or the Chief Justice of Chester to be one, to examine, hear and determine as well by examination of witnesses and of the parties upon interrogatories as by all other good ways and means by their wisdoms and discretions, as heretofore hath been used by the said Council for the time being, all . . . forgeries, extortions, briberies, exactions, comorthes and begging or unlawful gathering of many for any causes or pretences whatsoever, maintenances, champarties, embraceries, oppressions, vexations, conspiracies, embezzling, razing or defacing of any bills, pleadings, orders, rules, proceedings or records of the same court, escapes, riots, routs and unlawful assemblies, forestalling and engrossing, corruptions, falsehoods, frauds, unlawful hunting in forests, chases, parks and warrens, not amending high ways and bridges, erecting of cottages, taking in or keeping of inmates, keeping of disordered alehouses . . . and all other offences . . . committed against the laws of this realm by any . . . persons of what degree soever they be within the said dominion and principality of Wales [&c.] and to punish the same according to their wisdoms and discretions, as well by fine and imprisonment as otherwise, according to the quality of their offences, as to them shall seem meet.

IX. And further the said Lord P. [&c.] shall . . . diligently enquire within the limits of their jurisdiction as is aforesaid of

all such as, under pretence and colour of taking of any musters of any soldiers or of provision of armour and weapons, have unlawfully and indirectly exacted any sums of money or other gift whatsoever, and upon due proof thereof . . . shall not only constrain such officer . . . or other persons whatsoever to restore . . . the double value of the thing that is so taken . . . but also shall punish them with fine and imprisonment according to their discretions and the laws and ordinances in that behalf provided.

X. And his Majesty . . . doth by these presents give full power to the said Lord P. [&c.] to hear and determine all manner of perjuries committed within the said dominion [&c.], in such wise as the Lord P. and Council there for the time being might have done and used to do before the statute [5 Eliz. 9. § 7] made in the fifth year of the reign of the late Queen Elizabeth touching the punishing of perjury . . .

XI. And whereas divers lewd and malicious persons have heretofore and of late days more and more devised . . . or published many false and seditious tales . . . books, letters and libels, which amongst the people have wrought and hereafter may work great mischief, . . . his Majesty's pleasure is, . . . whensoever any such false and seditious tales [&c.] shall be devised . . . or dispersed within any the limits or jurisdictions aforesaid, that the publishers . . . thereof be forthwith stayed, and all means used to attach them all from one to another until the first author may be apprehended; and such offenders shall be duly openly punished by the said Lord P. [&c.] by fine, imprisonment, wearing of papers and the like, according to their discretion: but if any shall offend in so high a nature as may tend to the danger or dishonour of his Majesty or the state, then the said Lord P. [&c.] shall forbear to proceed thereupon and shall certify his Majesty or the Lords of his Privy Council of the case, and thereupon shall do as they shall be in that behalf directed.

XII. And whereas divers persons of Wales and the marches [&c.] have commonly used to go as well to churches as in fairs, markets and other places of public meeting in harness and privy coats, the King's Highness' pleasure is that from henceforth no man shall wear either harness or privy coat in churches,

fairs or markets or any other place of public meeting, except such as shall be licenced . . .: and in case that any man shall do contrary to this article, that then the officers to whom it shall appertain shall incontinently seize the said harness or privy coat to the King's Majesty's use and then send the persons wearing the same to the Lord P. [&c.] to be punished by imprisonment and fine according to the discretions of the said Lord P. [&c.] . . .

XIII. And further his Majesty doth give full power to the Lord P. [&c.] to make proclamations in his Highness' name as often as they shall think good for the better order and quieting of his Majesty's subjects within the principality [&c.], and to punish the offenders for their contempts against such proclamation by fine or imprisonment as the case shall require.

XIV. And his Majesty doth give full power to the said Lord P. [&c.] to hear and determine and also to punish all manner of persons within the limits and jurisdictions aforesaid which shall be notoriously known to live contrary to God's laws and the King's Highness' ecclesiastical laws in incest, adultery or fornication . . .; provided always that no person shall be called in question by the force of this article for any the offences aforesaid, unless the same offences shall be . . . committed within the space of three years next before information thereof given, nor that any such offender shall be examined upon oath; provided also that the ordinary of every diocese where any such offender shall be resident may proceed for the better satisfying the congregation and for the more knowledge of offenders' penitence in that behalf according to the laws and censures of the Church as heretofore they have done . . .

XV. And further his Majesty doth give full power to the said Lord P. [&c.] to examine, hear and determine as well upon bill exhibited by the plaintiff and the answer of the defendant thereunto made upon oath and by examination of witnesses . . . as by all other good ways and means . . ., as heretofore hath been used by the said Council, all manner of complaints, petitions and informations . . . for any cause or matter arising within the said dominion and principality [&c.], as well concerning lands, tenements or hereditaments, either of freehold or customary or copyhold, as goods and chattels for which there shall upon due

proof appear clear matter for the plaintiff to be relieved in equity and good conscience and that he is without ordinary remedy by the common law.

XVI. And his Majesty doth likewise give power to the said Lord P. [&c.], if any person that hath been by the space of three years quietly in possession of any lands, tenements or hereditaments . . . within the said dominions [&c.] shall be riotously, forcibly, or by fraudulent practice outed of the same or otherwise shall be vexed with often and continual suits or disturbances, that in such cases, though the party grieved may have common remedy by the ordinary law, they may, upon complaint thereof made unto them by bill or information, take order for the restoring of the possession of the same lands [&c.] until the title or interest of the same shall be decided or tried by the due course of the common law . . .

XVII. And his Majesty doth further give full power to the said Lord P. [&c.] to hear and determine . . . all debts, detenues, covenants, accounts, assumptions and other personal actions arising within the said dominion [&c.], where the debt . . . or the damage therein alleged shall not exceed the full sum of £50, and which shall not any way concern the title or interest of freehold, customary or copyhold or chattel real . . .; and also to hear and determine in like manner . . . all other actions personal though the same be for debt or damages to the sum of £50 or above, which shall not any way concern the title or interest of freehold or customary or copyhold or chattel real . . ., in cases where in respect of any inequality or disability of the complainant by poverty or otherwise it shall appear that the party plaintiff is not able to sue at the common law; provided that such inequality or disability of the complainant be certified . . . by the justices of assizes or great sessions where the said plaintiff shall dwell or by one of them, or by the bishop of the diocese or two justices of the peace of the said county . . .

[XVIII. Power to award costs.]

[XIX. Of letters missive, &c.]

[XX. Power to issue processes as usual.]

XXI. And likewise his Majesty doth hereby give full power to the said Lord P. [&c.], upon just cause of equity to them

appearing either by the answer of the defendant . . . or upon any other just occasion whereupon the court of Chancery useth to grant injunction for stay of suits of law, to award injunctions or orders for the stay of any proceedings . . . in any temporal court . . . within the limits aforesaid: provided that by colour thereof they do not award any injunction or order for stay of any suit depending in the courts of King's Bench, Common Pleas or Exchequer, nor before the justices of Assize or justices of Oyer or Terminer, or justices of the Great Sessions in the dominion of Wales or the General Sessions of the peace of any county within the said limits.

XXII. [Of the administering of oaths.]

XXIII. [Of pursuivants.]

XXIV. And further his Majesty commandeth that all matters . . . shall be heard and determined in open court before the Lord P. [&c.], and likewise all orders and rules taken before them in any causes shall be likewise done in open court . . .

XXV. [Arrangement of business in court.]

XXVI. [What causes may be heard in vacation.]

XXVII. [Certain orders of Queen Elizabeth to be observed.]

XXVIII, XXIX. [Register of orders and custody of records.]

XXX. [Power to fine and take recognizances.]

XXXI–XXXIII. [Of the making, keeping, &c. of the book of fines.]

XXXIV. [No new offices to be made or fees raised.]

XXXV. And his Majesty's pleasure is, that for avoiding of all corruption to be used by any purveyor or other officer appointed to provide carriages for removes and for wood and fuel and such other necessaries for the said Council, that from henceforth the country shall not be charged with more carriages than shall be requisite . . .; and therefore his Highness commandeth that all such carriages shall be appointed from time to time by the special warrant of the Lord P. [&c.] . . .

XXXVI. And his Majesty's further will and pleasure is, that if at any time hereafter it shall happen that the whole provision cannot be had of fuel, wood and coal for the expenses of the said household out of his Highness' woods . . . domains within the limits aforesaid, that then the Lord P. [&c.] shall give order to the clerk or receiver of the fines aforesaid for

payment of all such sums of money as shall be laid out for all such necessary fuel [&c.].

XXXVII, XXXVIII. [Of the serjeant at arms and messengers.]

XXXIX. And forasmuch as under pretence of privilege of the court there hath been increased not only many unnecessary suits in courts, but also unnecessary suitors, supposing themselves to be privileged persons which are not indeed, and thereby having their suits received without paying of fees, . . . to the discredit and slander of the same; for the reformation thereof it is his Majesty's pleasure that from henceforth there shall be no allowance of privilege for the receiving of such suits in the name of any persons other than such to whom the privilege of the court of right belongeth, . . . viz. to the Lord P. or V. P. and Council attending the same and their servants then attending upon them in household, with the officers of the court [and certain other persons].

XL. And forasmuch as it may chance the Lord P. [shall] be sometimes diseased . . . or shall be called to the parliament or otherwise employed in his Highness' affairs, . . . therefore to the intent that the said Council may be and remain evermore full and perfect, . . . his Majesty's pleasure is that, when the Lord P. shall be so diseased, absent or let, . . . that then he shall appoint such meet person being of the Council as by him the said Lord P. shall be thought meet during his absence, and his Majesty during the said time doth give unto every such person so to be appointed the name of Vice-President, and that so long as he shall continue V. P. he shall have all such authority as the Lord P. himself to all intents and purposes . . .

XLI. And forasmuch as the King's Majesty considering how unmeet it is that his Highness' tenants and farmers should be retained by wages, livery, . . . promise or otherwise, . . . therefore his Highness' express pleasure and commandment is that none of his Majesty's said Council . . . or any other person . . . shall by any liveries, wages, . . . promise or otherwise retain or entertain any of his Majesty's tenants or farmers in any sort whereby he shall account himself bound to do unto him or under him other than as to one of his Majesty's said Council or his Highness' officer in that behalf (if any so be) in any manner

of service: and further his like pleasure is, that the Lord P. [&c.] shall in every of their principal sittings give a special charge that none, either noblemen or gentlemen or other, presume to retain any of his Majesty's tenants, charging all his Majesty's tenants upon pain of his Majesty's displeasure in no wise to agree to any such retainer with any man, but only to depend upon his Highness and upon such as his Majesty shall appoint to be his officers in that behalf.

XLII. [General order to sheriffs &c. to aid the Council.]

XLIII. And to the end that the said Lord P. [&c.] may proceed to the administration of justice as well in all causes concerning his Majesty or the good and quiet government of his Majesty's subjects . . . as likewise to give convenient relief to all suitors, plaintiffs and defendants, . . . and that the said suitors or any others whom the said Lord P. [&c.] shall by his Highness' process call before them may quietly have access to the said President [&c.] . . . without any impeachment or molestation by arrest, . . . (which privileges are [so] incident to his Majesty's high courts of justice at Westminster that without the same in many cases they cannot administer his Highness' laws) . . .; therefore his Majesty's will and pleasure is that all his subjects, as well in making their repair to the said P. [&c.] as likewise during the time of their necessary abode to stay about the same and in their return home again, shall be privileged and discharged from all arrests by any process or warrant granted or sued out or from any corporation wherein the said Council shall be then resident or being.

XLIV. [Council to act with diligence.]

XLV. And the King's Majesty's further pleasure is, that the Lord P. [&c.] . . . shall minister as well the oath of supremacy as the oath hereafter mentioned[1] unto every of the said Council whensoever they shall be preferred thereunto . . .

XLVI. And forasmuch as it is convenient that as well all inferior officers and attendants . . . as other superiors may be obedient to the laws of the realm concerning the service of God and the profession of the true Christian religion established in the realm, the Lord P. [&c.] shall take order that no person . . . shall continue in or exercise any office there except they

[1] This oath nearly resembles that of a Privy Councillor (see above, p. 165).

shall willingly take such oath as is before appointed, and shall also orderly resort to the church and divine service and receive the communion according to the laws of the realm and the injunctions ecclesiastical.

XLVII. [Proclamation of certain of the above instructions to be made yearly.] *Rymer's Fœdera*, vol. XVII. p. 28.

5. Jurisdiction of the Lord High Admiral and the Court of Admiralty, 1618.

De concessione officii Admiralli Georgio Marchioni Buckinghamiae ad vitam.

I. Rex omnibus ad quos etc. salutem. Sciatis quod nos . . . de gratia nostra speciali et ex certa scientia et mero motu nostris dedimus ac concessimus . . . Georgio Marchioni Buck. officium Magni Admiralli nostri Angliae, Hiberniae, Walliae ac dominiorum et insularum eorumdem, villae Calesiae et marchiarum ejusdem, Normanniae, Gascoigniae et Aquitaniae, ac ipsum Georgium Marchionem Buck. Magnum Admirallum nostrum . . . necnon Praefectum Generalem classium et marium dictorum regnorum nostrorum Angliae et Hiberniae ac dominiorum et insularum eorumdem fecimus . . .

II. Et ulterius sciatis quod nos . . . damus et concedimus eidem G. M. B. [&c.] omnes jurisdictiones . . . emolumenta . . . et privilegia quaecunque eidem officio . . . pertinentia . . .; necnon tam bona et catalla quorumcunque proditorum, piratarum, homicidarum et felonum qualitercunque infra jurisdictionem nostram Admiralitatis praedictae delinquentium, quam bona [&c.] eorum . . . accessariorum [&c.]; atque etiam [the goods, &c. of suicides and certain other offenders]; necnon bona waivata, flotson, jetson, lagon et shares, ac thesaurum inventum, deodanda ac bona pro derelicto habita . . .; necnon omnia bona . . . deperdita in mare inventa seu extra mare projecta . . .; ac etiam anchoragia, beconagia seu signa per mare vel portus seu publica flumina [&c.] erecta; et lastagium seu arenosam navium onerationem; atque pisces regales, videlicet sturgiones [&c.]; et insuper omnes fines . . . forisfacturas et poenas pecuniarias pro transgressionibus . . . impositas . . . coram dicto Magno Admirallo Angliae seu aliquo

ejus locumtenente . . .: habendum et exercendum dictum officium . . . praefato G. M. B. pro termino vitae naturalis . . .

III. Et insuper . . . concedimus praefato G. M. B. [&c.] . . . quandam annuitatem . . . ducentarum marcarum legalis monetae Angliae . . . pro termino vitae dicti Marchionis . . .

IV. Et praeterea . . . concedimus praefato G. M. B. [&c.] plenam jurisdictionem et auctoritatem audiendi, examinandi et terminandi quascunque causas civiles et maritimas, atque querelas, contractus, delicta seu quasi-delicta, crimina, placita, debita, excambia, assecurationes, computa, literas partitas, conventiones, chirographia, onerationes navium omniaque negotia et contractus quae nautas pro navibus conductis et locatis . . . quovismodo tangunt . . ., lites, transgressiones, injurias et extortiones, et negotia civilia et maritima quaecunque inter mercatores et inter dominos et proprietarios navium . . . infra jurisdictionem nostram maritimam Admiralitatis . . . habita sive contracta pro aliqua re . . . vel negotio seu injuria quacunque, in super vel per mare aut flumina publica seu aquas dulces, rivos seu crecos et loca superinundata quaecunque, inter fluxum et refluxum maris et aquae ad plenitudinem, vel super littora seu ripas . . . adjacentes, a quibuscunque primis pontibus versus mare, per dicta regna nostra . . . vel alibi ultra mare aut in partibus ultramarinis . . .

V. Atque insuper causas appellationum et militarium querelarum ex causis praedictis a quibuscunque judicibus . . . seu aliis officiariis et ministris nostris . . . ad curiam principalem Admiralitatis Angliae praedictae interpositis . . ., juxta leges nostras civiles et maritimas et consuetudines praedictae curiae . . . in eadem curia audiendi et terminandi . . .; necnon querelas omnium contractuum . . . ultra mare perficiendorum seu ultra mare contractorum et in hoc regno nostro . . . perimplendorum . . .: ac etiam cognitionem caeterorum omnium quae ad officium Magni Admiralli Angliae [&c.] . . . ab antiquo pertinere debuerunt: et generaliter ad cognoscendum et procedendum in omnibus aliis causis, litibus, criminibus . . . et negotiis maritimis . . . infra jurisdictionem nostram maritimam Admiralitatis . . ., una cum postestate recognitiones . . . capiendi, . . . necnon naves, personas, res . . . et mercimonia . . . arestandi . . . et mandandi, ipsasque et ipsa, . . . juxta leges et consuetudines

praedictas aliisque viis [&c.] quibus dictus Magnus Admirallus [&c.] melius sciverit aut poterit, audiendi, examinandi, discutiendi ac fine debito terminandi . . .

VI. Necnon ad inquirendum per sacramentum proborum et legalium hominum . . . de omnibus quae de jure statutis, ordinationibus vel consuetudinibus curiae nostrae principalis Admiralitatis ab antiquo inquiri solent vel debent; reosque . . . naucleros, marinarios . . . et alios . . . res nauticas quascunque exercentes . . . mulctandum, corrigendum . . . ac . . . incarcerandum . . . : fluminaque nostra publica, portus [&c.] infra jurisdictionem nostram maritimam . . . pro conservatione tam classis nostrae . . . quam piscium in eisdem fluminibus [&c.] crescentium[1], ordinationes et statuta quaecunque in ea parte edita debite conservandum, . . . subconservatoresque deputandum . . . : necnon ad retia nimis stricta et alia ingenia sive instrumenta illicita . . . et exercitatores et occupatores eorumdem . . . corrigendum et reformandum.

VII. Atque insuper tam naves quam naviculas guerrinas quam quascunque alias naves et naviculas seu vasa quaecunque, pro quibuscunque viagiis et negotiis nostris . . . , necnon navigeros, nautas seu pilotas . . . et alias personas quascunque pro navibus [&c.] idoneos . . . quoties necesse fuerit . . . congregandum, deligendum . . . et assignandum . . . , prout Magno Admirallo nostro [&c.] de tempore in tempus magis expediens visum fuerit.

VIII. Concessimus praeterea . . . Magno Admirallo nostro [&c.] . . . potestatem, quoties opus et necesse fuerit, ad nominandum . . . et constituendum locumtenentes . . . ac omnes officiarios, ministros sub se necessarios . . . ; Statutaque et ordinationes quascunque in officio Admiralitatis praedictae statuendum . . . ac ea quae fuerint repellenda repellendum; Necnon hujusmodi officiarios [&c.] . . . amovere ac alios . . . substituere.

IX. [General clause empowering the Lord High Admiral and his deputies to proceed and give sentence &c. in the cases above-mentioned within the limits above-mentioned.]

X. Volumus etiam . . . quod praefatus G. M. B. . . . et ejus . . . ministri habeant cognitionem et decisionem de wrecco maris magno seu parvo, ac de morte submersione, et visu corporum mortuorum quorumcunque personarum in mare vel fluminibus

[1] Some words, such as 'supervidendum, et,' seem to be here omitted.

publicis [&c.] submersarum . . . aut aliquo alio modo ibidem ad mortem devenientium: necnon . . . conservationem statutorum[1] nostrorum de wrecco maris et de officio coronatoris annis tertio et quarto Edwardi Primi, atque statutorum[2] de bonis spoliatis super mare venientibus in hoc regnum nostrum Angliae anno vicesimo septimo Edwardi Tertii . . . editorum, atque cognitionem de mahemio in locis praedictis, . . . cum potestate etiam puniendi delinquentes in ea parte quoscunque juxta juris exigentiam et curiae nostrae Admiralitatis . . . consuetudines.

XI. Eo quod expressa mentio de vero valore annuo vel certitudine praemissorum . . . minime facta existit, atque aliquo statuto, actu . . . sive restrictione praesentibus literis patentibus . . . repugnantibus . . . non obstante.

XII. Mandantes . . . universis proceribus, dominis, justitiariis . . . ac caeteris ministris et fidelibus nostris . . . quod praefato Marchioni Buck. . . . circa executionem praemissorum intendentes . . . et obedientes sint, . . . sub poena contemptus istarum literarum patentium et sub periculo incumbente.

Apud Westmonasterium vicesimo octavo die Junii.

Rymer's Fœdera, vol. XVII. p. 124.

V.—MISCELLANEOUS.

1. The King's Coronation Oath.

Juramentum Regis Jacobi, 1603.

Archbishop. Sir, will you grant and keep and by your oath confirm to your people of England the laws and customs to them granted by the kings of England your lawful and religious predecessors; and namely the laws, customs and franchises granted to the clergy and to the people by the glorious king, St Edward, your predecessor, according and conformable to the laws of God and true profession of the gospel established in this kingdom, and agreeing to the prerogatives of the kings thereof and to the ancient customs of this realm?

King. I grant and promise to keep them.

[1] Officium Coronatoris (4 Ed. I).

[2] 27 Ed. III (2). 2, 13.

A. Will you keep peace and agreement entirely, according to your power, both to God, the holy church, the clergy and the people?

K. I will keep it.

A. Will you to your power cause law, justice and discretion in mercy and truth to be executed in all your judgments?

K. I will.

A. Sir, will you grant to hold and keep the laws and rightful customs which the commonalty of your kingdom have, and to defend and uphold them to the honour of God, so much as in you lieth?

K. I grant and promise so to do.

Sequitur admonitio episcoporum, &c.

Our lord and king, we beseech you to grant and preserve unto us and every one of us and the churches committed to our charge all canonical privileges and due law and justice, and that you would protect and defend us as every good king in his kingdom ought to be a protector and defender of the bishops and churches under their government.

K. With a willing and devout heart I promise and grant that I will preserve and maintain to you and every of you and the churches committed to your charge all canonical privileges and due law and justice, and that I will be your protector and defender to my power by the assistance of God, as every good king in his kingdom ought to protect and defend the bishops and churches under their government.

Tanner MSS. (*Bodl.*), vol. 94, f. 121.

2. Proclamation of the Union of England and Scotland, 1604.

As often as we call to mind the most joyful and just recognition made by the whole body of our realm in the first session of our high court of parliament of that blessing which it hath pleased God to reserve many years of his providence to our person and now in the fullness of the time of his disposition to bestow upon us, namely the blessed union or rather re-uniting of these two mighty, famous and ancient kingdoms of England

and Scotland under one imperial crown, so often do we think that it is our duty to do our utmost endeavour for the advancement and perfection of that work which is of his beginning and whereof he hath given so many palpable signs and arguments as he that seeth them not is blind, and he that impugneth them doth but endeavour to separate that which God hath put together . . . All which being matters prepared only by the providence of Almighty God and which by human industry could not have been so ordered, we and all our subjects ought first with reverence to acknowledge his handiwork therein and to give him our most humble thanks for the same, and then to further by our endeavours that which his wisdom doth by so many signs point out to be his will; whereof many particularities depending upon the determinations of the states and parliaments of both realms, we leave them there to be discussed according to the commissions granted by the several Acts of both parliaments, and, some other things resting in our own imperial power as the head of both, we are purposed towards the building of this excellent work to do by ourself that which justly and safely we may by our absolute power do . . .

Wherefore we have thought good to discontinue the divided names of England and Scotland out of our regal style, and do intend and resolve to take and assume unto us in manner and form hereafter expressed the name and style of King of Great Britain, . . . not that we covet any new affected name devised at our pleasure but out of undoubted knowledge do use the true and ancient name which God and time have imposed upon this isle . . .

Upon all which considerations we do by these presents by force of our kingly power and prerogative assume to ourself by the clearness of our right the name and style of King of Great Britain, France and Ireland, Defender of the Faith, &c., as followeth in our just and lawful title, and do hereby publish, promulgate and declare the same, to the end that in all our proclamations . . . and in all other causes of like nature the same may be used and observed . . .

[Dated 20 October, 1604.]

Rymer's Fœdera, vol. XVI. p. 603.

3. Censorship of the Press.

1. *Proclamation*, 1622.

A proclamation against the disorderly printing, uttering and dispersing of books, pamphlets, &c.

Whereas the 23rd day of June, in the 28th year of the reign of our late dear sister Queen Elizabeth, for the repressing of sundry intolerable offences . . . occasioned by the disorderly printing and selling of books, a decree [1] was made in the High Court of Star Chamber containing many just and provident ordinances for preventing of those inconveniences, . . . the true intent and meaning of which said decree hath been cautelously abused and eluded . . .: We, willing not only to tread in the steps of our said dear sister but to add such further strength as shall be meet to those provident and good orders made in her time, have thought fit to publish and declare unto all our subjects, that it is our express will and commandment that the said decree be from henceforth strictly observed and put in execution; and . . . we do straitly prohibit and forbid that no person whatsoever . . . do at any time hereafter, either within our own dominions or without, imprint or bring in . . . or disperse any seditious, schismatical or other scandalous books or pamphlets whatsoever, or any other books (though lawful or allowed to be printed by such to whom the printing thereof doth belong) which shall be printed contrary to the true intent of the said decree, or shall be printed out of this realm of purpose to avoid the said decree or any prohibition or restraint contained in any letters patents, privilege or lawful ordinance, upon pain of our indignation and heavy displeasure, and of the pains, punishments and imprisonments contained in the said decree, and such further censures as by our court of Star Chamber and High Commission respectively shall be thought meet to be inflicted on them for such their offences.

And we do straitly charge the master and keepers or wardens of the mystery or art of stationers of the city of London . . . that they from time to time . . . do make careful and diligent search for all such scandalous and offensive books or pamphlets as are imported into this realm or here imprinted

[1] See above, p. 169.

contrary to this our royal commandment, and seize the same, and do their uttermost endeavours as well for suppressing thereof as for bringing the offenders unto justice . . .

[Dated 25 Sept. 1622.]

Rymer's Fœdera, vol. XVII. p. 522.

2. *Proclamation*, 1624.

A proclamation against seditious, popish and puritanical books or pamphlets.

For that the printing, importing and dispersing of popish and seditious books and pamphlets and seditious puritanical books and pamphlets . . . is grown so common and practised so licentiously, both to the traducing of religion and the state, as that great inconveniences may grow thereby if they be not prevented and punished; therefore we do straitly charge and command that from henceforth no person or persons whatsoever presume to print any book or pamphlet concerning matters of religion, church government or state within any our own dominions, which shall not first be perused, corrected and allowed under the hand of the Lord Archbishop of Canterbury, the Lord Archbishop of York, the Bishop of London, the Vice-Chancellor of one of the Universities of Oxford or Cambridge for the time being, or one of them, or some other learned person or persons to that purpose appointed by them or one of them; and that no merchant or other person whatsoever from henceforth presume to import into this kingdom any such book or pamphlet and offer the same to sale or otherwise dispose thereof, before the same be first perused and allowed by the Lord Archbishop of Canterbury [and others as before] . . . and that no . . . person whatsoever shall from henceforth presume to sell or offer to sell or otherwise disperse . . . any such book or pamphlet not so perused and allowed, upon pain of our high displeasure and such other severe punishment as by our laws or by our prerogative royal may be inflicted upon them for such their contempt.

And we do straitly charge and command all . . . our officers and ministers whatsoever and all other our loving subjects to whom it shall appertain, and especially the master and wardens

of the company of stationers of London, that from time to time they do their utmost endeavours for the due observance of the premisses, and for the discovery and searching out of all offences and offenders against this our royal command.

[Dated] Nottingham, 15 August a. r. 22.

Rymer's Fœdera, vol. XVII. p. 616.

4. Military System.

1. *Appointment of a Council of War*, 1624.

De Commissione Olivero Vicecomiti Grandison et aliis.

James by the grace of God, &c., to our right trusty and right well-beloved cousin and councillor Oliver Viscount Grandison, and to our right trusty and well-beloved councillors, George Lord Carew, Master of our Ordnance, Fulke Lord Brooke, Arthur Lord Chichester [and seven others], greeting. Whereas we are now to take such ways and means as shall be most requisite for securing our realm of Ireland with the rest of our dominions and putting our navy royal in readiness, we have thought good to nominate and appoint a council of war for this purpose, and of the knowledge we have of your wisdom, integrity and experience in matters of this nature, we have made special choice of you, and do hereby require and authorize you or any six or more of you to assemble and meet together from time to time, as there shall be cause, to call unto you such persons of experience whose advice and opinion you shall find cause to make use of, and to advise of such ways and means as may further our aforesaid ends of assisting our allies, specially the Low Countries, securing Ireland and the rest of our dominions, and putting our navy in readiness and safety, together with what else shall be recommended to you from us for your advice towards the furtherance of our service; and upon mature deliberation of such things as shall fall into debate with you, you are to set down in writing your opinions, and make speedy representation to us of such things as shall be fit for our knowledge, and likewise to offer unto our Privy Council such propositions as may be meet for their consideration or to be by them put in execution. And these our

letters shall be your sufficient warrant and discharge in this behalf.

[Dated] Nonsuch, 20 July.

Rymer's Fœdera, vol. XVII. p. 615.

2. *Impressment and Martial Law*, 1621.

James by the grace of God, &c., to all justices of peace, mayors, sheriffs, bailiffs, constables, headboroughs and to all other our officers, ministers and subjects to whom these presents shall come, greeting. Forasmuch as we have appointed our right trusty and right well-beloved cousin, Henry, Earl of Oxford, to be for this time the admiral of certain of our ships and pinnaces and of divers other ships and vessels of our subjects, . . . and to the end he may be furnished of all manner of necessaries that shall be needful or shall thereunto appertain; know ye that we . . . by these presents do give full power and authority unto the said Henry, Earl of Oxford, and to his sufficient deputy or deputies, wheresoever he shall have need, to press and take up for our service, for the furnishing of any such ships or vessels as shall be under his charge in any place upon our coasts of England or Ireland, any mariners, soldiers, gunners or other needful artificers and workmen to be employed in our service committed to his charge.

And further we do give full power and authority unto the said Henry, Earl of Oxford, to receive and take into his charge . . . all such our ships and all other ships as are by our commandment appointed by our High Admiral of England to go under his charge, with all their companies, . . . to rule, command and govern and to . . . punish as the greatness and quality of the fault requireth: that is to say, as for any treason to us or our ships or people in them, or for any wilful murder, or for any notable mutiny, the same being truly and justly proved, the said Henry, Earl of Oxford, shall have full power to execute and take away their life or any member in form and order of martial law, and for all other lesser offences to punish as in his discretion he shall think best and as are commonly used in our armies by sea and land . . .

[Dated] Westminster, December 4.

Rymer's Fœdera, vol. XVII. p. 342.

3. *Commission to execute Martial Law*, 1624.

James by the grace of God [&c.] to our trusty and well-beloved the mayor of Dover for the time being [and nine others.] [1]

Whereas we are given to understand that of those troops and companies of soldiers, which are now come together by our commandment . . . at Dover or the places thereabouts in the county of Kent, to the end to be from thence transported into parts beyond the seas with all convenient speed, that many of them are so disordered and disobedient to their commanders as that they presume to commit divers outrages and with such violence as that the peace of our said county is much disturbed, and many of our loving subjects put in fear of their lives and have their houses and goods violently entered upon and taken [2] away by force: We therefore, . . . out of our gracious care to prevent the said disorders and outrages by suppressing them in their beginning before they go too far, have . . . appointed you to be our commissioners, and do by these presents give unto you or any three or more of you full power in all places within our said county of Kent, as well within the Cinque Ports or any other liberty as without, to proceed according to the justice of martial law against such soldiers within any of our lists aforesaid and other dissolute persons joining with them as, during such time as any of our said troops . . . shall remain there . . ., shall within any the places or precincts aforesaid at any time after the publication of this our commission commit any robberies, felonies, mutinies or other outrages or misdemeanours which by the martial law ought to be punished with death; and by such summary course and order as is agreeable to martial [3] law and as is used in armies in time of war to proceed to the trial and condemnation of such delinquents and offenders, and them [to] cause to be executed and put to death according to the law martial, for an example of terror to others . . .: to which purpose our will and pleasure is that you cause to be erected such gallows or gibbets and in such places as you shall think fit, and thereupon to cause the said offenders to be

[1] Eight Knights and one Esquire.
[2] 'taking,' in the roll.
[3] 'marshall,' in the roll: cp. above, p. 154.

executed in open view that others may take warning thereby to demean themselves in such due order and obedience as good subjects ought to do; straitly charging and commanding all mayors . . . and other officers and all other our loving subjects whatsoever, upon their allegiance to us and our crown, to be aiding you and such three or more of you as aforesaid in the due execution of this our royal commandment. And these presents shall be unto you a sufficient warrant and discharge for the doing and executing . . . all such things as any three or more of you as aforesaid shall find requisite to be done concerning the premisses.

At Westminster, the thirtieth day of December.

Pat. Roll, 22 Jac. I, part 4.

VI.—EXTRACTS FROM POLITICAL WRITERS.

1. James I.

1. *Prerogative and the Judges.*

. . . Now having spoken of your office in general, I am next to come to the limits wherein you are to bound yourselves, which likewise are three. First, encroach not upon the prerogative of the crown: if there falls out a question that concerns my prerogative or mystery of state, deal not with it, till you consult with the king or his council, or both; for they are transcendent matters . . . That which concerns the mystery of the king's power is not lawful to be disputed; for that is to wade into the weakness of princes, and to take away the mystical reverence that belongs unto them that sit in the throne of God.

Secondly, that you keep yourselves within your own benches, not to invade other jurisdictions, which is unfit and an unlawful thing . . . Keep you therefore all in your own bounds, and for my part, I desire you to give me no more right, in my private prerogative, than you give to any subject, and therein I will be acquiescent: as for the absolute prerogative of the crown, that

is no subject for the tongue of a lawyer, nor is lawful to be disputed.

It is atheism and blasphemy to dispute what God can do: good Christians content themselves with his will revealed in his word, so it is presumption and high contempt in a subject to dispute what a king can do, or say that a king cannot do this or that; but rest in that which is the king's revealed will in his law.

A speech in the Star-Chamber on 20 *June*, 1616 (*Works of James I.* ed. 1616, p. 556).

2. *Prerogative and Parliament.*

According to these fundamental laws already alleged, we daily see that in the parliament (which is nothing else but the head court of the king and his vassals) the laws are but craved by his subjects, and only made by him at their rogation and with their advice: for albeit the king make daily statutes and ordinances, enjoining such pains thereto as he thinks meet, without any advice of parliament or estates, yet it lies in the power of no parliament to make any kind of law or statute, without his sceptre be to it, for giving it the force of a law ... And as ye see it manifest that the king is over-lord of the whole land, so is he master over every person that inhabiteth the same, having power over the life and death of every one of them: for although a just prince will not take the life of any of his subjects without a clear law, yet the same laws whereby he taketh them are made by himself or his predecessors; and so the power flows always from himself; as by daily experience we see good and just princes will from time to time make new laws and statutes, adjoining the penalties to the breakers thereof, which before the law was made had been no crime to the subject to have committed ... And where he sees the law doubtsome or rigorous, he may interpret or mitigate the same, lest otherwise *summum jus* be *summa injuria*: and therefore general laws made publicly in parliament may upon known respects to the king by his authority be mitigated and suspended upon causes only known to him.

As likewise, although I have said a good king will frame all

his actions to be according to the law, yet is he not bound thereto but of his good will, and for good example-giving to his subjects . . . So as I have already said, a good king, though he be above the law, will subject and frame his actions thereto, for example's sake to his subjects, and of his own free will, but not as subject or bound thereto . . .

True Law of Free Monarchies (*Works of James I*, p. 202).

2. Chief Justice Coke.

1. The honourable court of Star-Chamber, coram Rege et Concilio suo: of ancient time, coram Rege in camera, &c.

In the 28th year of the reign of Edward III it appeareth that the returns *coram nobis* are in three manners: *coram nobis in camera* (which it is said was afterwards called *Camera Stellata*); *coram nobis ubicunque fuerimus in Anglia*, which is the King's Bench; and *coram nobis in cancellaria*. And of all the high and honourable courts of justice, this ought to be kept within his proper bounds and jurisdiction . . . [Here follow notes of various cases in which the jurisdiction of the Council or the Star-Chamber is mentioned, in the reigns of Edward III, Henry VI, Edward IV, Richard III and Henry VII.]

. . . This court in ancient times sat but rarely, for three causes. First, for that enormous and exorbitant causes which this court dealt withal only in those days rarely fell out. Secondly, this court dealt not with such causes as other courts of ordinary justice might condignly punish, *ne dignitas hujus curiae vilesceret*. Thirdly, it very rarely did sit lest it should draw the king's Privy Council from matters of state *pro bono publico* to hear private causes, and the principal judges from their ordinary courts of justice.

That which now is next to be considered *in serie temporis* is the statute of 3 H. VII . . .

Upon this statute and that which formerly has been said, these six conclusions do follow. The first conclusion is, that this Act of 3 H. VII did not raise a new court; for there was a court of Star-Chamber and all the king's Privy Council judges of the same . . .

The second conclusion is, that the Act of 3 H. VII being in the

affirmative is not in some things pursued . . . ; and it is a good rule that, where the Act of 3 H. VII is not pursued, there . . . they must have warrant from the ancient court . . .

Thirdly, that this Act being (as hath been said) in the affirmative, and enumerating divers particular offences, albeit 'injuries' is a large word, yet that court hath jurisdiction of many other, as is manifest by authority and daily experience, and this must of necessity be in respect of the former jurisdiction.

Fourthly, this Act in one point is introductory of a new law, which the former court had not, viz. to examine the defendant . . . upon oath upon interrogatories.

Fifthly, where it is said in this Act, 'and to punish them after their demerits after the form and effect of statutes made, &c.' the plaintiff may choose whether he will inform upon such statutes as this Act directeth, or for the offence at the common law, as he might have done before this Act; which proveth that this Act taketh not away the former jurisdiction.

Lastly, that the jurisdiction of the court dealeth not with any offence that is not *malum in se*, against the common law, or *malum prohibitum*, against some statute . . .

Divers special Acts of Parliament have given also jurisdiction to this court, viz. 12 R. II, cap. 11; 2 R. II, cap. 5 [?]; 13 H. IV, cap. 7; 33 H. VIII, cap. 1; 4 & 5 Ph. & Mar. cap. 8: 5 Eliz. cap. 9, 10 & 14: 27 Eliz. cap. 4.

And seeing the proceeding according to the laws and customs of this realm cannot by one rule of law suffice to punish in every case the exorbitancy and enormity of some great horrible crimes and offences, and especially of great men, this court dealeth with them, to the end that the medicine may be according to the disease, and the punishment according to the offence, *ut poena ad paucos, metus ad omnes perveniat*, without respect of persons, be they public or private, great or small . . .

The proceeding in this court is by bill of information, by examination of the defendant upon interrogatories, and by examination of witnesses, and rarely *ore tenus*, upon the confession of the party in writing under his hand, which he again must freely confess in open court, upon which confession in open court the court doth proceed. But if his confession be set

down too short or otherwise than he meant, he may deny it, and then they cannot proceed against him but by bill of information, which is the fairest way . . .

It is the most honourable court (our Parliament excepted) that is in the Christian world, both in respect of the judges of the court, and of their honourable proceeding according to their just jurisdiction and the ancient and just orders of the court. For the judges of the same are (as you have heard) the grandees of the realm, the Lord Chancellor, the Lord Treasurer, the Lord President of the King's Council, the Lord Privy Seal, all the lords spiritual, temporal and others of the King's most honourable Privy Council, and the principal judges of the realm, and such other lords of Parliament as the King shall name . . . And the court cannot sit for hearing of causes under the number of eight at the least . . . This court, the right institution and ancient orders thereof being observed, doth keep all England in quiet.

So this court being holden *coram Rege et Concilio*, it is or may be compounded of three several councils: that is to say, (1) of the lords and others of his Majesty's Privy Council, always judges without appointment, as before it appeareth. (2) The judges of either bench and barons of the exchequer are of the King's Council for matter of law, &c., and the two chief justices or, in their absence, other two justices are standing judges of this court. (3) The lords of Parliament are properly *de Magno Concilio Regis*, but neither these, being not of the King's Privy Council, nor any of the rest of the judges or barons of the Exchequer are standing judges of this court.

It is now and of ancient time hath been called the Chamber of the Stars, the Star-Chamber, the starred chamber, in respect the roof of the court is garnished with golden stars . . . Lastly, it remaineth to be seen what jurisdiction this court hath in punishment, and where and in what cases this court may inflict punishment by pillory, papers, whipping, loss of ears, tacking of ears, stigmata in the face, &c. (For it extendeth not to any offence that concerns the life of man or obtruncation of any member, the ears only excepted, and those rarely and in most heinous and detestable offences) . . . *Institutes*, Part IV. cap. 5.

2. Of the High Commission in Causes Ecclesiastical.

Two questions have been made concerning the jurisdiction of these commissioners:

First, what causes do belong to the High Commissioners by force of the Act of 1 Elizabeth, Cap. I. and of the letters patents thereupon grounded?

Secondly, in what cases the High Commissioners, by the said Act of 1 Eliz. Cap. I. and the letters patents to them granted, may impose fine and imprisonment, and in what not . . .

First, the title of the Act is 'An Act restoring to the crown the ancient jurisdiction,' &c. By this the nature of the Act doth appear to be an Act of restitution. And this is also manifest by the preamble of the Act . . .

The first clause of the body of the Act (to let in the restitution of the ancient right and jurisdiction ecclesiastical within the realm) doth abolish all foreign jurisdiction out of the realm. Then followeth the principal clause of restitution and uniting of the ancient jurisdiction ecclesiastical, being the main purpose of the Act [the first part of § 8 is recited]. And upon this clause, being the final intention of this Act expressed in the title and preamble, do the subsequent clauses depend: therefore this clause is especially to be considered, and therein these things are to be observed: . . . that no jurisdiction is by this Act restored and united to the crown but such as before the Act had been or lawfully might be exercised or used for the reformation, correction, &c. Whereupon it is concluded that, seeing that no man could be fined or imprisoned by force of any jurisdiction ecclesiastical which had been used or lawfully might be used before this Act, that therefore by this Act no power of fining and imprisoning in ecclesiastical causes is given . . .

The jurisdiction being restored to Queen Elizabeth, her heirs and successors, next and immediately doth the Act give her power to assign and authorize commissioners to execute this jurisdiction restored and united to her, for which purpose it is further enacted [part of § 8, 'And that your Highness . . . restrained or amended,' is recited.] By this clause there is no question but the commissioners for such causes as are com-

mitted to them by force of this Act may, if the commissioners be competent, proceed to deprivation of the Popish clergy, (which was the main object of the Act), or to punish them by ecclesiastical censures, and by no words or meaning hitherto can punish by fine or imprisonment, for that no ecclesiastical power could reform and correct (as the statute speaketh) in that manner. And without question, if the commissioners be competent, that is, if they be spiritual men, they may proceed to sentence of excommunication, . . . and upon certificate made of the excommunication according to law, a *Significavit* or *Cap. excom.* shall be awarded out of the chancery for the taking and imprisoning of the bodies of such excommunicate persons.

Now after the letters patents of the commission are described and limited, followeth a clause of direction for the commissioners to keep themselves within their commission in these words [the conclusion of § 8, 'And that such persons . . . notwithstanding,' recited.] This is a clause of reference merely to the former parts of the Act, and yet by colour of this clause the High Commissioners do pretend to fine and imprison. That this clause referreth wholly to the former parts of the Act, it is apparent by the very words thereof . . . And by the authority that is claimed by the commissioners, who seeth not but that confiscation of lands, forfeiture of goods and chattels, &c., as well may be imposed as fine and imprisonment? And were it not a violent interpretation, directly against the letter and meaning of the Act and full of great inconvenience, to make of these latter words this construction, viz. that the High Commissioners should correct and punish all the errors, heresies, schisms, offences, abuses, contempts and enormities, &c., under such pains, forfeiture and penalty as Queen Elizabeth, her heirs and successors by any letters patents should impose or appoint; and that consequently by force of the generality of this construction, she did impose and appoint fine and imprisonment? Which construction should be first directly against the words and meaning of the Act for the causes aforesaid. Secondly, by the same reason, by the generality of such a construction, Queen Elizabeth might have imposed forfeiture of lands, confiscation of goods, nay, corporal punishment, loss of member and of life also, for incontinency, solicitation of chastity,

working on a holiday or any inferior offence punishable by the ecclesiastical law, and yet the sentence of the commissioners in such cases should be both fatal and final . . . Thirdly, that this violent construction, under mystical and cloudy words, should extend to fine and imprisonment, &c. [of] all persons, as well laymen . . . as to ecclesiastical persons, who were the proper objects of this Act . . . : than which nothing could be more absurd and inconvenient . . .

And seeing it hath been granted that the papal authority or any other having ecclesiastical jurisdiction could not fine and imprison before this Act of 1 Elizabeth, . . . it followeth *a concessis* and by the letter of this Act that it was never the meaning of the makers thereof to extend the said clause to fine and imprison the subject for ecclesiastical causes, and to make him subject to greater confiscations, forfeitures and punishments, where his body before this Act was not subject to imprisonment but upon the King's writ *De excom. capiendo*, nor his body, lands and goods to fines or other penalties or punishments, by them to be imposed . . . We must therefore retire ourselves to the text of the Act of 1 Eliz., the only ground of this question, and thereupon the conclusion is that no letters patents can by virtue of this Act of 1 Eliz. give any power to the commissioners to imprison, except it be in certain particular cases, which now fall into consideration. For example[1] the statute of 1 H. VII, cap. 4. doth give power to bishops, &c. to commit priests convicted of any incontinency to prison . . .

If the High Commissioners might have fined and imprisoned men for offences against the ecclesiastical laws, to what end were the statutes[2] of 23 Eliz., 28 Eliz. &c., made against men for abstaining and not coming to divine service, &c., and why did those Acts inflict a penalty of £20 the month and imprisonment, &c., with a discharge of the penalty, &c. upon submission, if the High Commissioners might have fined and imprisoned them absolutely without certainty of any sum or limitation of any time of imprisonment, and without any ability or power by submission or conformity to ease themselves? . . .

[1] This is the only example of such exceptional legislation given by Coke.

[2] The allusion is to 23 Eliz. 1. § 5, and 29 Eliz. 6. § 1, &c.

And concerning the form of commissions and practice by the High Commissioners in the reign of the late Queen Elizabeth by fining and imprisoning for adultery, fornication, simony, usury, defamation, &c., it may be that such fines have been imposed, but, as we be informed, not one of them levied in all the reign of Queen Elizabeth by any judicial process out of the exchequer . . .

In Atmere's case the whole court of Exchequer in the last Queen's reign judicially resolved, being the King's proper court, that the High Commissioners could not punish any man for working on a holiday, albeit it be a matter of ecclesiastical cognisance, but [that he] ought by the true meaning of the statute of 1 Eliz. to be punished by the diocesan . . .

And concerning fine and imprisonment, anno 9 Reginae Eliz. . . . Thomas Lee, an attorney of the Common Pleas, being convented before the High Commissioners for hearing of a mass, was by them in their proceedings committed to prison, which matter being returned by Habeas Corpus, he was upon great consideration had by the Lord Dier and the whole Court of Common Pleas discharged of his imprisonment, for that the High Commission had no power to imprison him in that case . . .

And we will conclude with the confession of the Lord Archbishop Bancroft himself in his 22nd Article, his own words being: 'Of latter days whereas certain lewd persons (two for example's sake), one for notorious adultery and other untolerable contempts, and another for abusing of a bishop of this kingdom by threatening speeches and sundry railing terms, no way to be endured, were thereupon fined and imprisoned by the High Commissioners till they should enter into bonds to perform further orders of the said court, the one was delivered by Habeas Corpus out of the King's Bench, and the other by a like writ out of the Common Pleas; and sundry other prohibitions have been likewise awarded to his Majesty's said Commissioners upon these suggestions, that they had no authority to fine or imprison any man.

Institutes, Part IV. cap. 74.

3. Lord Bacon.

1. *The Star-Chamber.*

First, the authority of the Star-Chamber, which before subsisted by the ancient common laws of the realm, was confirmed in certain cases by Act of Parliament. This court is one of the sagest and noblest institutions of this kingdom. For in the distribution of courts of ordinary justice, besides the high court of parliament, in which distribution the King's Bench holdeth the pleas of the crown, the common-place pleas civil, the exchequer pleas concerning the King's revenue, and the chancery the pretorian power for mitigating the rigour of law, in case of extremity, by the conscience of a good man; there was nevertheless always reserved a high and pre-eminent power to the King's Council, in causes that might in example or consequence concern the state of the commonwealth; which if they were criminal, the Council used to sit in the chamber called the Star-Chamber; if civil, in the White-Chamber or White-Hall. And as the chancery had the pretorian power for equity, so the Star-Chamber had the censorian power for offences under the degree of capital. This court of Star-Chamber is compounded of good elements, for it consisteth of four kinds of persons, councillors, peers, prelates, and chief judges. It discerneth also principally of four kinds of causes, forces, frauds, crimes various of stellionate, and the inchoations or middle acts towards crimes capital or heinous, not actually committed or perpetrated. But that which was principally aimed at by this Act was force, and the two chief supports of force, combination of multitudes, and maintenance or headship of great persons.

History of the Reign of Henry VII, ed. 1641, p. 63.

2. *The Crown and the Judges.*

Judges ought above all to remember the conclusion of the Roman Twelve Tables, *salus populi suprema lex*[1]; and to know that laws, except they be in order to that end, are but

[1] This is not from the Twelve Tables, but from Cicero, *De Legibus*, III. 3.

things captious, and oracles not well inspired. Therefore it is a happy thing in a State when Kings and States do often consult with judges; and again, when judges do often consult with the King and State: the one, when there is matter of law intervenient in business of state; the other, when there is some consideration of state intervenient in matter of law; for many times, the things deduced to judgment may be *meum* and *tuum*, when the reason and consequence thereof may trench to point of estate . . . Let judges also remember, that, Solomon's throne was supported by lions on both sides; let them be lions, but yet lions under the throne, being circumspect, that they do not check or oppose any points of sovereignty.

Essays; '*Of Judicature.*'

4. Sir Walter Raleigh.

The Prerogative.

All binding of a King by law upon the advantage of his necessity makes the breach itself lawful in a King, his charters and all other instruments being no other than the surviving witnesses of unconstrained will. *Princeps non subjicitur nisi sua voluntate libera, mero motu et certa scientia*—necessary words in all the grants of a King witnessing that the same grants were given freely and knowingly.

Prerogative of Parliament (*Preface*).

5. Dr. Cowell[1].

King . . . He is above the law by his absolute power (Bracton, I. 8)[2]; and though for the better and equal course in making laws he do admit the three estates, that is, Lords Spiritual,

[1] On 27 Feb., 1610, the House of Commons took notice of this book, published in 1607 by Dr Cowell, Professor of Civil Law at Cambridge; and on March 2, in a conference with the Lords, specified the articles, King, Parliament, Prerogative, and Subsidy, as specially objectionable (*Commons' Journals*). The King, in his message to Parliament (March 8) said, 'that it was dangerous to submit the power of a king to definition; but withal he did acknowledge that he had no power to make laws of himself, or to exact any subsidies *de jure* without the consent of his three estates.' *Parliamentary Debates in* 1610 (Camden Society), p. 24.

[2] Bracton, on the contrary, says (l. c.): 'Ipse autem rex non debet esse sub homine sed sub deo et sub lege, quia lex facit regem . . .: non est enim rex ubi dominatur voluntas et non lex.'

Lords Temporal, and the Commons unto council, yet this, in divers learned men's opinions, is not of constraint, but of his own benignity or by reason of his promise made upon oath at the time of his coronation. For otherwise were he a subject after a sort and subordinate, which may not be thought without breach of duty and loyalty. For then must we deny him to be above the law, and to have no power of dispensing with any positive law, or of granting especial privileges and charters unto any, which is his only and clear right . . . And though at his coronation he take an oath not to alter the laws of the land, yet this oath notwithstanding, he may alter or suspend any particular law that seemeth hurtful to the public estate . . . Thus much in short, because I have heard some to be of opinion that the laws be above the King . . . Lastly he hath in the right of his crown many prerogatives above any common person, be he never so potent or honourable.

Parliament (*parlamentum*) . . . The assembly of the King and the three estates of the realm, videlicet, the Lords Spiritual, the Lords Temporal, and Commons, for the debating of matters touching the commonwealth and especially the making and correcting of laws; which assembly or court is of all other the highest, and of greatest authority . . . And of these two, one must needs be true, that either the King is above the parliament, that is, the positive laws of his kingdom, or else that he is not an absolute King (Aristotle, *Polit.* III. 16)[1]. And therefore though it be a merciful policy and also a politic mercy (not alterable without great peril) to make laws by the consent of the whole realm, because so no one part shall have cause to complain of a partiality, yet simply to bind the prince to or by these laws were repugnant to the nature and constitution of an absolute monarchy . . .

Prerogative of the King (*praerogativa regis*) is that especial power, pre-eminence or privilege that the King hath in any kind, over and above other persons and above the ordinary course of the common law, in the right of his crown[2] . . . Now

[1] The exact reference is obscure, but Aristotle (l. c.) concludes '*κἂν εἴ τινας ἄρχειν βέλτιον, τούτους καταστατέον νομοφύλακας καὶ ὑπηρέτας τοῖς νόμοις*:' which agrees with Bracton and not with Cowell.

[2] Cf. Blackstone, I. 7 (ed. 1830, vol. I. p. 239): 'By the word Prerogative we usually understand that special pre-eminence which the king hath,

for those regalities which are of the higher nature (all being within the compass of his prerogative and justly to be comprised under that title), there is not one that belonged to the most absolute prince in the world which doth not also belong to our King, except the custom of the nations so differ (as indeed they do) that one thing be in the one accounted a regality that in another is none. Only by the custom of this kingdom he maketh no laws without the consent of the three estates, though he may quash any law concluded of by them. And whether his power of making laws be restrained *de necessitate* or of a godly and commendable policy, not to be altered without great peril, I leave to the judgment of wiser men. But I hold it incontrollable [incontrovertible], that the King of England is an absolute King. And all learned politicians do range the power of making laws *inter insignia summae et absolutae potestatis.*

Subsidy (*subsidium*) . . . signifying a tax or tribute assessed by parliament, and granted by the Commons to be levied of every subject according to the value of his lands or goods, after the rate of 4*s.* in the pound for land and 2*s.* 8*d.* for goods, as it is most commonly used at this day. Some hold opinion that this subsidy is granted by the subject to the Prince, in recompense or consideration, that whereas the Prince of his absolute power might make laws of himself, he doth of favour admit the consent of his subjects therein, that all things in their own confession may be done with the greater indifferency.

Cowell's Interpreter, ed. 1607.

6. John Selden.

Convocation.

We have nothing so nearly expresses the power of a convocation in respect of a parliament, as a court-leet where they have a power to make byelaws, as they call them; as that a man shall put so many cows or sheep in the common; but they can make nothing that is contrary to the laws of the kingdom.

over and above all other persons, and out of the ordinary course of the common law, in right of his regal dignity.' The substitution of the words 'out of' for 'above' makes all the difference.

King.

A King is a thing men have made for their own sakes, for quietness' sake . . .

A King that claims privileges in his own country, because they have them in another, is just as a cook, that claims fees in one Lord's house because they are allowed in another. If the master of the house will yield them, well and good.

The text, 'Render unto Cæsar the things that are Cæsar's,' makes as much against Kings as for them, for it says plainly that some things are not Cæsar's. But divines make choice of it, first in flattery, and then because of the other part adjoined to it, 'Render unto God the things that are God's,' where they bring in the Church. . . .

The King can do no wrong: that is, no process can be granted against him. What must be done then? Petition him, and the King writes upon the petition 'soit droit fait,' and sends it to the chancery, and then the business is heard. His confessor will not tell him he can do no wrong.

There's a great deal of difference between head of the church and supreme governor, as our canons call the King. Conceive it thus: there is in the kingdom of England a college of physicians; the King is supreme governor of those, but not head of them, nor president of the college, nor the best physician.

Prerogative.

Prerogative is something that can be told what it is, not something that has no name. Just as you see the archbishop has his prerogative court, but we know what is done in that court, so the King's prerogative is not his will, or—what divines make it—a power to do what he lists.

The King's prerogative, that is the King's law. For example, if you ask whether a patron may present to a living after six months by law? I answer, No. If you ask whether the King may? I answer, he may by his prerogative, that is, by the law that concerns him in that case. *Selden's Table Talk*, ed. 1696.

VII.—ECCLESIASTICAL.

I. Documents.

1. *The Millenary Petition*, 1603.

The humble petition of the ministers of the Church of England desiring reformation of certain ceremonies and abuses of the Church.

To the most Christian and excellent prince, our gracious and dread Sovereign, James, by the grace of God, &c., we, the ministers of the Church of England that desire reformation, wish a long, prosperous and happy reign over us in this life, and in the next everlasting salvation.

Most gracious and dread Sovereign, seeing it hath pleased the Divine Majesty, to the great comfort of all good Christians, to advance your Highness, according to your just title, to the peaceable government of this church and commonwealth of England, we, the ministers of the gospel in this land, neither as factious men affecting a popular parity in the church nor as schismatics aiming at the dissolution of the state ecclesiastical, but as the faithful servants of Christ and loyal subjects of your Majesty, desiring and longing for the redress of divers abuses of the church, could do no less in our obedience to God, service to your Majesty, love to his church, than acquaint your princely Majesty with our particular griefs. For, as your princely pen writeth, the King as a good physician must first know what peccant humours his patient naturally is most subject unto before he can begin his cure. And although divers of us that sue for reformation have formerly in respect of the times subscribed to the book, some upon protestation, some upon exposition given them, some with condition, rather than the church should have been deprived of their labour and ministry, yet now we, to the number of more than a thousand of your Majesty's subjects and ministers, all groaning as under a common burthen of human rites and ceremonies, do with one joint consent humble ourselves at your Majesty's feet, to be eased and relieved in this behalf. Our humble suit then unto

your Majesty is, that [of] these offences following, some may be removed, some amended, some qualified:

I. In the church service, that the cross in baptism, interrogatories ministered to infants, [and] confirmation, as superfluous, may be taken away. Baptism not to be ministered by women, and so explained. The cap and surplice not urged. That examination may go before the communion. That it be ministered with a sermon. That divers terms of priests and absolution and some other used, with the ring in marriage, and other such like in the book may be corrected. The longsomeness of service abridged. Church songs and music moderated to better edification. That the Lord's day be not profaned: the rest upon holidays not so strictly urged. That there be an uniformity of doctrine prescribed. No popish opinion to be any more taught or defended: no ministers charged to teach their people to bow at the name of Jesus. That the canonical scriptures only be read in the church.

II. Concerning church ministers, that none hereafter be admitted into the ministry but able and sufficient men, and those to preach diligently, and especially upon the Lord's day. That such as be already entered and cannot preach may either be removed and some charitable course taken with them for their relief, or else to be forced, according to the value of their livings, to maintain preachers. That non-residency be not permitted. That King Edward's statute [5 & 6 E. VI. 12] for the lawfulness of ministers' marriage be revived. That ministers be not urged to subscribe but (according to the law) to the articles of religion and the King's supremacy only.

III. For church living and maintenance, that bishops leave their commendams, some holding prebends, some parsonages, some vicarages, with their bishoprics. That double-beneficed men be not suffered to hold some two, some three benefices with cure, and some two, three or four dignities besides. That impropriations annexed to bishoprics and colleges be demised only to the preachers' incumbents for the old rent. That the impropriations of layman's fees may be charged with a sixth or seventh part of the worth, to the maintenance of the preaching minister.

IV. For church discipline, that the discipline and excom-

munication may be administered according to Christ's own institution, or at least that enormities may be redressed; as, namely, that excommunication come not forth under the name of lay persons, chancellors, officials, &c. That men be not excommunicated for trifles and twelve-penny matters: that none be excommunicated without the consent of his pastor. That the officers be not suffered to extort unreasonable fees. That none having jurisdiction or registers' places put out the same to farm. That divers popish canons (as for restraint of marriage at certain times) be reversed. That the longsomeness of suits in ecclesiastical courts (which hang sometime two, three, four, five, six or seven years) may be restrained. That the oath *ex officio*, whereby men are forced to accuse themselves, be more sparingly used. That licences for marriage without banns asked be more cautiously granted.

These, with such other abuses yet remaining and practised in the Church of England, we are able to show not to be agreeable to the Scriptures, if it shall please your Highness further to hear us, or more at large by writing to be informed, or by conference among the learned to be resolved. And yet we doubt not but that without any further process your Majesty (of whose Christian judgment we have received so good a taste already) is able of yourself to judge of the equity of this cause. God, we trust, hath appointed your Highness our physician to heal these diseases. And we say with Mordecai to Hester, 'Who knoweth whether you are come to the kingdom for such a time?' [Esth. iv. 14]. Thus your Majesty shall do that which we are persuaded shall be acceptable to God, honourable to your Majesty in all succeeding ages, profitable to his church, which shall be thereby increased, comfortable to your ministers, which shall be no more suspended, silenced, disgraced, imprisoned for men's traditions, and prejudicial to none but to those that seek their own quiet, credit and profit in the world. Thus with all dutiful submission referring ourselves to your Majesty's pleasure for your gracious answer as God shall direct you, we most humbly recommend your Highness to the Divine Majesty, whom we beseech for Christ his sake to dispose your royal heart to do herein what shall be to his glory, the good of his church, and your endless comfort.

Your Majesty's most humble subjects, the ministers of the gospel, that desire, not a disorderly innovation, but a due and godly reformation. *Fuller's Church History*, Book X.

2. *Hampton Court Conference, Jan.* 1604.

The sum of what was concluded at this conference will appear in this following authentic paper, which seems to be [by] the hand of the Bishop of London [Bancroft].

A note of such things as shall be reformed in the Church.

1. The Absolution shall be called the Absolution or General Remission of Sins.

2. The Confirmation shall be called the Confirmation or Further Examination of children's faith.

3. The Private Baptism, now by laymen and women, shall be called the Private Baptism by the ministers only; and all those questions in that baptism, which insinuate it to be done by women, taken away.

4. The Apocrypha, that hath some repugnancy to the canonical scripture, shall not be read; and other places chosen which either are explanations of scripture or suit best for good life and manners.

5. The jurisdiction of the bishops shall be somewhat limited, and to have either the dean and chapter, or some grave minister assistant to them in ordination, suspension, degradation, &c.

6. The excommunication, as it is now used, shall be taken away both in name and nature. And a writ out of the chancery, to punish the contumacious, shall be framed.

7. The kingdom of Ireland, the borders of Scotland, and all Wales, to be planted with schools and preachers as soon as may be.

8. As many learned ministers, and maintenance for them, to be provided in such places of England, where there is want, as may be.

9. As few double-beneficed men and pluralities as may be; and those that have double benefices to maintain preachers, and to have their livings as near as may be one to the other.

10. One uniform translation of the Bible to be made, and only to be used in all the churches of England.

11. One Catechism to be made and used in all places.

12. The Articles of Religion to be explained and enlarged; and no man to teach or read against any of them.

13. A care had, to observe who do not receive the communion once in the year: the ministers to certify the bishops, the bishops the archbishops, and the archbishops the King.

14. An inhibition for Popish books to be brought over; and if any come, to be delivered into their hands only that are fit to have them.

15. The High Commission to be reformed, and reduced to higher causes and fewer persons; and those of more honour and better qualities. *Strype, Whitgift,* vol. II. p. 501.

3. *The King's Licence to Convocation, April,* 1604.

James, by the grace of God, &c., to all to whom, &c., greeting. Whereas in and by one Act of Parliament made at Westminster in the 25th year of the reign of King Henry the Eighth, reciting that where the King's humble and obedient subjects, the clergy of the realm of England, had not only acknowledged according to the truth that the Convocations of the same clergy were, always had been and ought to be assembled only by the King's writ, but also submitting themselves to the King's Majesty had promised *in verbo sacerdotii* that they would never from thenceforth presume to attempt, allege, claim or put in ure, or enact, promulge or execute any new canons, constitutions, ordinances, provincial or other, or by whatsoever other name they should be called in the Convocation unless the said King's most royal assent and licence might to them be had to make, promulge and execute the same, and that the said King did give his most royal assent and authority in that behalf, it was therefore enacted by the authority of the said parliament according to the said submission and petition of the said clergy (amongst other things) that they nor any of them from thenceforth should enact, promulge or execute any such canons [&c.] in their Convocations in time coming, (which always should be assembled by authority of the King's writ), unless the same

clergy might have the King's most royal assent and licence to make, promulge and execute such canons [&c.], upon pain of every one of the said clergy doing contrary to the said Act and being thereof convict to suffer imprisonment and make fine at the King's will; and further by the said Act it is provided that no canons [&c.] should be made or put in execution within this realm by authority of the Convocations of the clergy which should be contrary or repugnant to the King's prerogative royal or the customs, laws or statutes of this realm, anything contained in the said Act to the contrary thereof notwithstanding; and lastly it is also provided by the said Act that such canons [&c.] which then were already made, and which then were not contrary nor repugnant to the laws [&c.] of this realm nor to the damage or hurt of the King's prerogative royal, should then still be used and executed as they were before the making of the said Act, until such time as they should be viewed, searched or otherwise ordered and determined by the persons mentioned in the said Act or the more part of them, according to the tenour, form and effect of the said Act, as by the said Act amongst divers other things more fully and at large it doth and may appear; Know ye that we, for divers urgent and weighty causes and considerations us thereunto specially moving, of our special grace, certain knowledge and mere motion . . . do give and grant full, free and lawful liberty, licence, power and authority unto the Reverend Father in God, Richard, Bishop of London, president of this present Convocation for the province of Canterbury at this present parliament now assembled, and to the rest of the bishops of the same province, and unto all deans of cathedral churches, archdeacons, chapters and colleges, and the whole clergy of every several diocese within the said province, That they, the said Bishop of London, president of the said Convocation, and the rest of the said bishops [&c.] or the greater number of them shall and may from time to time confer . . . and agree of and upon such canons [&c.] as they, the said Bishop of London, president of the said Convocation, and the rest of the said bishops . . . or the greater number of them (whereof the said president . . . to be one) and the rest of the clergy . . . or the greater number of them shall think necessary . . ., for the honour and service of

Almighty God, the good and quiet of the Church and the better government thereof, to be from time to time observed . . . as well by themselves and the rest of the whole clergy of the said province of Canterbury in their several callings . . . and administrations and also by all chancellors, deans and chapters, archdeacons, commissaries, . . . and all other ecclesiastical officers and their inferior ministers whatsoever of the same province of Canterbury in their distinct courts and in the order and manner of their proceedings; and further to confer . . . and agree upon such other points . . . as we from time to time shall deliver . . . unto the said Bishop of London, president of the said Convocation, in writing under our sign manual or privy signet to be debated . . . and concluded upon: the said statute or any other statute, Act of Parliament . . . or any other . . . thing whatsoever to the contrary notwithstanding.

And we do also by these presents give unto the said Bishop of London, president of the said Convocation, and to the rest of the bishops [&c.] full, free and lawful liberty . . . and authority that they, the said Bishop of London . . . and the rest of the said bishops of the same province or the greater number of them (whereof the said president of the said Convocation to be one) and the rest of the clergy . . . or the greater number of them, all the said canons [&c.] so by them . . . agreed upon shall and may set down in writing in such form as heretofore hath been accustomed; and the same so set down in writing to exhibit and deliver . . . unto us, to the end that we upon mature consideration . . . may allow . . . and ratify or otherwise disallow . . . such and so many of the said canons [&c.] as we shall think fit: . . . provided always that the said canons [&c.] . . . be not contrary or repugnant to the doctrine, orders and ceremonies of the Church of England already established; provided also . . . that the said canons [&c.] shall not be of any force . . . in the law, but only such and so many of them and after such time as we by our letters patent under our great seal of England shall allow . . . the same; anything before in these presents contained to the contrary thereof in any wise notwithstanding.

[Dated] at Westminster, 12 April.

Pat. Roll, 2 James I, Part 25.

4. A Proclamation enjoining conformity to the form of the service of God established [July, 1604].

The care which we have had and pains which we have taken to settle the affairs of this Church of England in an uniformity as well of doctrine as of government, both of them agreeable to the word of God, the doctrine of the primitive church and the laws heretofore established for those matters in this realm, may sufficiently appear by our former actions. For no sooner did the infection of the plague reigning immediately after our entry into this kingdom give us leave to have any assembly, but we held at our honour of Hampton Court for that purpose a conference between some principal bishops and deans of this church, and such other learned men as understood or favoured the opinions of those that seek alteration, before ourself and our council. Of which conference the issue was, that no well grounded matter appeared to us or our said council why the state of the church here by law established should in any material point be altered . . . Notwithstanding at the late assembly of our parliament there wanted not many that renewed with no little earnestness the questions before determined and many more, as well about the Book of Common Prayer as other matters of church government, and importuned us for our assent to many alterations therein. But . . . the end of all their motions and overtures falling out to be none other in substance than was before at the conference at Hampton Court, . . . we have thought good once again to give notice thereof to all our subjects by public declaration, . . . and consequently to admonish them all in general to conform themselves thereunto, without listening to the troublesome spirits of some persons, who never receive contentment either in civil or ecclesiastical matters but in their own fantasies, especially of certain ministers who under pretended zeal of reformation are the chief authors of divisions and sects among our people. Of many of which we hope that now when they shall see that such things as they have proposed for alteration prove upon trial so weakly grounded as deserve not admittance, they will out of their own judgment conform themselves . . . But if our hope herein fail us, we must advertise them that our duty towards

God requireth at our hands, that what untractable men do not perform upon admonition, they must be compelled unto by authority . . . And yet by advice of our council and opinion of the bishops, we have thought good to give time to all ministers disobedient to the orders of the church and to ecclesiastical authority here by law established, and who for such disobedience, either in the days of the Queen our sister of famous memory deceased or since our reign, have incurred any censures of the church or penalties of laws, until the last of November now next ensuing to bethink themselves of the course they will hold therein, . . . assuring them that after that day we shall not fail to do that which princely providence requireth at our hands; that is, to put into execution all ways and means that may take from among our people all grounds and occasions of sects, divisions and unquietness . . .

[Dated 16 July, a. r. 2.]

Cardwell, Documentary Annals, vol. II. p. 60.

5. *Circular letter of Archbishop Bancroft, with a copy of a letter from the Privy Council touching clerical nonconformists, Dec.* 1604.

Salutem in Christo. I have received a letter from the lords of his Majesty's most honourable Privy Council, whereof your lordship is to take notice, the copy whereof followeth word for word.

After our hearty commendations to your lordship. Forasmuch as the time is now expired which by his Majesty's late proclamation, dated the 16th day of July last, was prescribed and limited to all those of the clergy for the conforming of themselves unto the laws and orders of the church government established within this realm, that have heretofore, under a pretended zeal of reformation, but indeed of a factious desire of innovation, refused to yield their obedience and conformity thereunto; by means whereof all such as persist in that wilful disobedience are subject to the penalty of deprivation from their benefices and other church livings, of deposition from their ministry, and other censures of the church, which were as well at all times heretofore as presently in vigour and force . . .

His Majesty is well pleased to have it known that he is as far from alteration of his purpose to work an uniformity, as they are importunate in their unjust desire of innovation, and expecteth that from henceforth without delay, where advice prevaileth not, authority shall compel, and that the laws shall be put in execution where admonition taketh not effect . . . And so we bid your lordship very heartily farewell. From Whitehall the 10th of December MDCIV . . .

Your lordship having perused this letter cannot but greatly rejoice at his Majesty's constant resolution and most honourable inclination of their lordships, and I doubt not but you will with all care, faith and diligence accomplish the effect thereof . . .

At Lambeth the 22nd of December, MDCIV.

Your lordship's very loving friend and brother,

R. CANTUAR.

Cardwell's Documentary Annals, vol. II. p. 69.

6. *Letter of indulgence to Papists*, 1622.

The Lord Keeper wrote to the judges on this manner: That the King having, upon deep reason of state, and in expectation of the like correspondence from foreign princes to the professors of our religion, resolved to grant some grace to the imprisoned Papists, had commanded him to pass some writs under the broad seal for that purpose: wherefore it is his Majesty's pleasure, that they make no niceness or difficulty to extend his princely favour to all such as they shall find prisoners in the gaols of their circuits, for any church recusancy, or refusing the oath of supremacy, or dispersing of popish books, or any other point of recusancy that shall concern religion only and not matters of state. *Rushworth*, vol. I. p. 63.

7. *Letter of James I to the Archbishop of Canterbury, with directions about preachers*, 1622.

Most Reverend Father in God, right trusty and entirely beloved councillor, we greet you well. Forasmuch as the abuses and extravagances of preachers in the pulpit have been in all times suppressed in this realm by some act of Council or

State, with the advice and resolution of grave and learned prelates; . . . and whereas at this present divers young students, by reading of late writers and ungrounded divines, do broach many times unprofitable, unsound, seditious and dangerous doctrines, to the scandal of the Church and disquiet of the State and present government; We, upon humble representation unto us of these inconveniences by yourself and sundry other grave and reverend prelates, . . . do by these our special letters straitly charge and command you to use all possible care and diligence that these limitations and cautions herewith sent unto you, concerning preachers, be duly and strictly from henceforth put in practice and observed by the several bishops within your jurisdiction . . .

Directions concerning preachers . . .

I. That no preacher, under the degree and calling of a bishop or dean, . . . do take occasion, by the expounding of any text of scripture whatsoever, to fall into any set discourse or common place, otherwise than by opening the coherence and division of the text, which shall not be comprehended and warranted, in essence, substance, effect or natural inference, within some one of the Articles of Religion . . .

II. That no parson, vicar, curate or lecturer, shall preach any sermon or collation hereafter, upon Sundays and holidays in the afternoon, in any cathedral or parish church throughout the kingdom, but upon some part of the Catechism, or some text taken out of the Creed, Ten Commandments or the Lord's Prayer, (funeral sermons only excepted) . . .

III. That no preacher of what title soever, under the degree of a bishop or dean at the least, do from henceforth presume to preach in any popular auditory the deep points of predestination, election, reprobation, or of the universality, efficacy, resistibility or irresistibility of God's grace . . .

IV. That no preacher . . . shall presume in any auditory within this kingdom to declare, limit or bound out, by way of positive doctrine in any lecture or sermon, the power, prerogative and jurisdiction, authority or duty of sovereign princes . . .

V. That no preacher . . . shall presume causelessly or without

invitation from the text to fall into bitter invectives and indecent railing speeches against the persons of either Papists or Puritans . . .

VI. Lastly, that the archbishops and bishops of the kingdom (whom his Majesty hath good cause to blame for their former remissness) be more wary and choice in their licensing of preachers, and revoke all grants made to any chancellor, official or commissary, to pass licences in this kind: and that all the lecturers . . . be licensed henceforward in the court of faculties, by recommendation of the party from the bishop of the diocese, under his hand and seal, with a *fiat* from the Lord Archbishop of Canterbury [and] a confirmation under the great seal of England. And that such as do transgress any one of the directions be suspended by the bishop of the diocese, or in his default by the archbishop of the province, *ab officio et beneficio*, for a year and a day, until his Majesty, by the advice of the next Convocation, shall prescribe some further punishment. *Rushworth*, vol. I. pp. 64–5.

8. *High Commission*, 1611[1].

[I.] James by the grace of God, &c., to the most reverend father our right trusty and right well-beloved councillor, George, Lord Archbishop of Canterbury [&c.], and to the Lord Archbishop of Canterbury for the time being, and to our right trusty and right well-beloved councillor, Thomas, Lord Ellesmere, Lord Chancellor of England, and to our right trusty and right well-beloved cousin and councillor, Robert, Earl of Salisbury, Lord High Treasurer of England, and to the Lord Chancellor of England or Lord Keeper of the Great Seal of England . . . and to the Lord Treasurer of England for the time being, and to [87 others[2]] greeting.

[II.] Whereas at the parliament holden at Westminster in the first year of the reign of our dear sister Elizabeth late

[1] Additions made in the Commissions of 1613 and 1625 are printed in italics.

[2] The list includes ten Bishops, six Deans, four Archdeacons, eight high officials of state, the two Chief Justices and the Chief Baron, with six other Judges, the Attorney General, the Solicitor General, &c.

Queen of England one Act was made, amongst others, entitled An Act restoring to the crown the ancient jurisdiction over the state ecclesiastical [&c.], by which said Act, amongst other things, it was established and enacted, That [&c.]; by the express words of which said Act authorizing our said dear sister, her heirs and successors, to grant such commissions when and as often and for such and so long time as should be thought meet and convenient, it appeareth that the said parliament purposed plainly to represent and intimate to our said dear sister and the kings of this realm that should succeed, as well the great trust that was reposed in the crown, as also their own opinion and intention that such commissions should be of a temporary nature, and that it was desired and meant that they might be accommodated to the accidents and varieties of times and occasions; We have now thought good, for divers weighty causes and out of our princely care and desire to ease and content our loving subjects as far as may stand with good government and justice, by the advice of our Privy Council to grant forth our commission in manner and form following.

[III.] Know ye therefore that we for sundry good, weighty and necessary causes and considerations us thereunto especially moving, of our mere motion and certain knowledge, by force and virtue of our supreme authority and prerogative royal and of the said Act, do by these our letters patents under our great seal of England give and grant full, free and lawful power and authority unto you the said [commissioners above-named] being all our natural subjects, or any three or more of you, whereof [the Archbishop, the Lord Treasurer, the Lord Privy Seal, ten Bishops and fourteen others] to be one, from time to time to enquire as well by examination of witnesses or presentments as also by examination of the parties accused themselves upon their oath (where there shall first appear sufficient matter of charge by examination of witnesses or by presentments or by public and notorious fame or by information of the ordinary) of all and singular apostasies, heresies, great errors in matters of faith and religion, schisms, unlawful conventicles tending to schism against the religion or government of the Church now established; and also of all persons which have or shall refuse to have their children baptized, or which have or shall ad-

minister or procure or willingly suffer the sacrament of baptism to be administered by any Jesuit, Seminary or other popish priest, or which have or shall celebrate the mass or procure the same to be celebrated, or willingly hear or be present at the same, and of their said offences; and also of all blasphemous and impious acts and speeches, scandalous books, libels and writings against the doctrine of religion, the book of Common Prayer or ecclesiastical state or government now established in the Church of England, or against any archbishop or bishop, touching any offence or crime of ecclesiastical cognizance, profanation of the sacraments of baptism and the Lord's Supper and of all other things and places consecrated or dedicated to divine service; wilful and unlawful digging up of buried bodies in any church or chapel, or churchyard; violent and wilful disturbances and interruptions of divine service or sermons in any church, chapel or public preaching place; violent and wilful laying of hands upon the person of any archbishop or bishop; simonies, incests, infamous and notorious adulteries; [1] *and of all abuses, offences, insolent misbehaviours and contempts being not capital, committed or done unto or against you or any such three or more of you as is aforesaid, judicially sitting in our said court of High Commission for ecclesiastical causes; and of all outrageous offences, abuses and contempts aforesaid against any our officers or ministers in the execution of the process or mandates awarded or made according to the tenour or to the true intent or meaning of these our letters patents;* and also of all corruptions, contempts and abuses in any ecclesiastical judges, officers, or their deputies or clerks or other ministers whatsoever belonging [1] *either to our said court of High Commission* [*&c.*] *or* to any *other* ecclesiastical courts or . . . employed in or by the same, committed in any county . . . or other places . . . within these our realms of England and Ireland and dominion of Wales, and of all the offenders in the premises, and of all their counsellors, procurers and abettors.

[IV.] And we do further give and grant full, free and lawful power and authority unto you all or to such three or more of

[1] Added in 1613.

you as is aforesaid to enquire as aforesaid of all misdemeanours whatsoever committed by any ecclesiastical person within these our realms, . . . which in any wise concern the execution of their several offices . . . in any matter of ecclesiastical cognizance, as also of all other misdemeanours committed by the said ecclesiastical persons for which they may be censured by the ecclesiastical laws of this our kingdom.

[V.] And also we . . . give . . . authority unto you or any three or more of you, whereof [&c. as before], to search for, apprehend and imprison . . . all Jesuits, Seminaries and other popish priests, obstinate and dangerous popish recusants, suspected of practice against the state, and sectaries; and likewise all persons which shall send or convey . . . any children of their own or of any others or any persons whatsoever into the parts beyond the seas, to be there kept, taught or brought up in the Romish religion, either in any school or seminary or in any other place whatsoever; and also all such as shall send and convey . . . any money or other things towards the relief or maintenance of any such child or children, or of the said seminaries or schools themselves, or any persons living in the same; and to proceed against and punish them in manner and form hereafter following, or otherwise to deliver them over to our temporal courts, judges and justices as their several cases shall require.

[VI.] And also we . . . do give full . . . authority unto you or any three or more of you, whereof [&c.], to enquire and search for . . . all heretical, schismatical and seditious books, libels and writings, [1] *and all other books, pamphlets and portraitures offensive to the state or set forth without sufficient and lawful authority in that behalf*, and all makers, devisers, printers and wilful dispersers of any such . . . books [&c.], and their procurers, counsellors and abettors; and the same books [&c.] and the printing-presses themselves likewise to seize [1] *and so to order and dispose of them . . . as they may not after serve or be employed for any such unlawful use, restoring nevertheless the materials in such case as they may not afterwards be so abused or otherwise the value of them to the owners thereof*: and also to take, apprehend and imprison . . . the offenders in that behalf,

[1] Added in 1613.

[1] *and also all persons which shall offend against any decree heretofore made by the high court of Star-Chamber . . . or hereafter to be there made touching the reformation of divers disorders in the printing and uttering of books.*

[VII.] And we do further give . . . authority unto you or any three or more of you as is last before mentioned to send your letters missive to or for any person which shall be charged, accused or upon notorious fame suspected to have offended in any of the premises, thereby . . . commanding them to appear before you [&c.] at a day and place certain to answer thereunto; and where you [&c.] shall find it necessary in any of the cases aforesaid only, we give you [&c.] authority, by [y]our messengers or pursuivants or by attachment to be directed to the sheriff to whom the execution in that behalf shall appertain, to cause such person so charged [&c.] to be arrested . . . and apprehended and to be kept in safe custody till he shall be brought before you [&c.], or otherwise shall be enlarged or delivered according to the direction hereafter in these presents prescribed.

[VIII.] And we likewise give . . . authority unto you [&c.] to command all our sheriffs, messengers and other officers . . . by your process of attachment, either to bring safely before you [&c.] the said persons . . . or else, if you [&c.] shall in your discretions so think fit, to take such sufficient bonds to our use of such persons which from time to time shall be so arrested . . . as aforesaid . . . for their personal appearance to be made before you [&c.] . . .

[IX.] And we do give authority to all the said sheriffs . . . and other officers to take such bonds to our use of such persons and in such cases . . . as are before mentioned; and in case any such persons be not able or will obstinately refuse to give sufficient bond and security . . . as aforesaid . . ., then we will that in our name you [&c.] give commandment to such sheriff [&c.] under whose charge he or they so to be convented before you shall happen to be, either for the bringing of him before you or else to commit him to ward . . ., so to remain until he shall give such bond or until you [&c.] shall take further order for his enlargement.

[1] Added in 1613.

[X.] And furthermore we give authority unto you [&c.] to take by your discretions of any offender or suspect person which shall be convented and brought before you [&c.] such recognizances or obligations to our use in such sums of money for their personal appearance and attendance from time to time before you [&c.] as to you [&c.] shall seem meet in that behalf: and if any person which shall be so called before you [&c.] touching any of the premises do refuse to make their personal appearance . . . or to enter such bond or recognizance as aforesaid, then it shall be lawful to you [&c.] to apprehend and to commit to prison all the said persons . . . , there to remain in safe custody for such reasonable time as you [&c.] shall think fit in your discretions, or till they shall enter such bond or recognizance . . . aforesaid.

[XI.] And we do also give authority unto you [&c.] to call before you [&c.] all offenders in any of the premises and also all such as shall be charged, accused or upon notorious fame suspected to have offended, and them to examine upon their corporal oaths touching every of the premises which you shall object against them, in case it do first appear that the parties unto which the said oath shall be so ministered are thereof detected either by examination of witnesses or by presentments or by public or notorious fame or by information of the ordinary where the offence was committed: and if any person shall refuse to take the said oath in the cases aforesaid or having taken the oath shall refuse to answer upon their oath directly and fully unto the articles and matters objected against them, then it shall be lawful to you [&c.] to apprehend . . . such persons . . . and to commit them to prison, there to remain . . . until they have taken the said oath and made full and direct answer respectively unto the said articles . . . , or otherwise to proceed against the said refusers according to the ecclesiastical law in that behalf.

[XII.] And likewise we give unto you [&c.] authority to call and send for all such witnesses or other persons as can inform you concerning any of the premises as you [&c.] shall think meet . . . , and them to examine upon their corporal oaths for the better trial and opening of the premises.

[XIII.] And further we give authority unto you [&c.] from

time to time during our pleasure to hear all the offences and the offenders aforesaid, and to proceed against them either according to the form of the law ecclesiastical or summarily according to the grave wisdoms and discretions of you [&c.], and likewise to order and determine the same, inflicting such censures and punishments only as are hereafter mentioned and prescribed.

[XIV.] And if you [&c.] shall find by confession of the party or other sufficient proof any person to have offended in the premises, or refusing to obey or perform your orders . . ., that then you [&c.] shall have authority . . . to punish the same person so offending by censures ecclesiastical or by reasonable fine or imprisonment according to the quality and quantity of their offence, or by all or any the said means according to your discretions.

[XV.] And when any person shall be convented or presented before you [&c.] for any of the offences before expressed at the instance and suit of any person promoting the office in that behalf, that then you [&c.] shall have full power to award such costs and expenses of the suit as well to and against the party that shall prefer or present the same offence as to and against the party that shall be convented, according as their causes shall require . . .; and if the said costs and expenses . . . be not paid . . ., then it shall be lawful to you [&c.] to cause such persons to be arrested and apprehended, . . . and to commit them to prison there to remain till they have satisfied the same.

[XVI.] And forasmuch as, if one commit an offence of ecclesiastical cognizance in one diocese or peculiar jurisdiction, and afterwards depart and remain in another diocese or jurisdiction before any suit be therefore commenced or presented in the place where the offence was committed, he is unpunishable by any ordinary jurisdiction ecclesiastical, we therefore . . . do give authority to you [&c.], upon the certificate and complaint thereof to you [&c.] first made by the ordinary of the diocese or judge of the peculiar where the offence was so committed, to send for by letters missive or to cause to be apprehended and brought before you [&c.] by process of attachment if need be . . . any offender or any person charged or suspected to have offended in

any crime of ecclesiastical cognizance other than those which are before particularly mentioned; and when any such offender [&c.] shall appear or be brought before you [&c.], to set down such orders as you [&c.] shall think meet; which said orders so by you [&c.] to be made as aforesaid shall be to this effect only, that the said offenders [&c.] shall personally appear to answer to the said crimes according to the laws ecclesiastical of this our kingdom before the ordinary or judge ecclesiastical of the place where the offence was committed.

[XVII.] And likewise we give unto you [&c.] authority to take sufficient bonds or recognizances . . . of all the said offenders [&c.] for the performance of the said orders; and if the said offenders [&c.] shall refuse to perform the said orders . . . or to give bonds . . . , then it shall be lawful for you [&c.] . . . to punish them by reasonable imprisonment according to your discretion.

[XVIII.] And further we do give unto you [&c.] authority to take and seize such children and other persons which from time to time shall be carried or conveyed or [are] ready to be carried or conveyed into any of the parts beyond the seas to the intent to be there brought up in Romish religion as aforesaid; and likewise to take and seize such money and other things which shall be appointed to be carried into any of the parts beyond the seas for the maintenance either of the said children and persons . . . or of any other person brought up or remaining in the aforesaid seminaries or schools of Romish religion; and the said children and other persons which shall be taken as aforesaid to retain in safe custody till some good order may be taken for them.

[XIX.] And also we do give unto you [&c.] authority to seize all massing stuff, relics and other like superstitious things and to deface the same in such manner as from henceforth they may not serve for any such superstitious use, without destroying the substance thereof, except otherwise it cannot be so defaced.

[XX.] [1] *And forasmuch as since our last commission for causes ecclesiastical . . . there hath been divers lamentable complaints and petitions delivered as well to ourself as to our Privy*

[1] Added in 1613.

Council by many wives against their husbands, wherein they have suggested that without any just cause of offence given by them to their said husbands in that behalf, and notwithstanding that some of them have brought to their husbands great advancement, yet by their husbands' cruel and barbarous usage and breach of the bonds of holy wedlock and other their ungodly demeanour they have been either cast off or left by their husbands or forced to fly from them or leave their cohabitation without fit maintenance given unto them, and that the ordinary ecclesiastical courts did not afford them timely and fit means of relief for sundry reasons and specially because their necessities require above all other cases of grievance a summary hearing and speedy relief, being otherwise often in danger to perish for want; We therefore, to the end that as well ourself as our Privy Council daily employed in the highest affairs of state might be freed of this particular, as also that the just complaints and distressed estates of such wives in the cases aforesaid may be with all convenient expedition heard, determined and relieved in a certain court whereunto in that behalf they may ordinarily repair for justice, do give unto you [*&c.*] *authority upon every such complaint made to you* [*&c.*] . . . *by any wife or in the behalf of any wife against her husband, to send for by letters missive or to cause to be apprehended and brought before you* [*&c.*] . . . *all such husbands . . . ; and when any such husband . . . shall appear or be brought before you* [*&c.*], *to proceed to the examination thereof by all the lawful ways and means before mentioned with all convenient expedition . . .*

[xxi.] *And we do further give authority unto you or any five or more of you whereof* [*the Archbishop, the Lord Chancellor, the Lord Treasurer, the Lord Privy Seal, the Bishops of London and Ely*] *to be one, finally to hear and determine . . . the said complaints and accusations made by or in the behalf of any wife against her husband in the cases aforesaid: and if you or any such three or more of you as is first above mentioned shall not be able by your godly and grave counsel and persuasions to reconcile the said husbands and wives . . . , then you or any five or more of you, whereof* [*as before*], *to set down such orders from time to time as you* [*&c.*] *shall in your discretions think meet for the competent and reasonable alimony and maintenances of every such wife for*

so long time as you shall think meet, and during the time of her and her said husband's living asunder and for the defraying of the expenses of suit which every such wife hath or shall be at in the presenting of the said cause . . .

[xxii.] *And likewise we give unto you and every such five or more of you as is aforesaid, authority to take sufficient bonds or recognizances . . . of every such husband so accused as aforesaid, as well for his appearance . . . as also for the performance of all your orders made in the behalf of the said wives as aforesaid, which bonds* [*&c.*] *if they shall refuse to enter into or shall refuse to perform your said orders, then we give unto you or any such five or more of you as aforesaid authority in that behalf to punish the same person so refusing or not performing the same by censures ecclesiastical or by reasonable fine and imprisonment, or by all or any of the said means according to your discretions.*

[XX (xxiii.)] [Power to make statutes for cathedrals, grammar schools, &c. as before, to a quorum of six, of whom the archbishop or a bishop to be one.]

[XXI (xxiv.)] [Power to the archbishop and bishops to administer the oath of supremacy as before: certificates of refusal to be made to the court of King's Bench.]

[XXII (xxv.)] [Sir George Paule to be registrar, with allowance fixed by the commissioners, as before.]

[XXIII (xxvi.)] [Power to appoint messengers, as before.]

[XXIV (xxvii.)] [Appointment of a receiver or receivers: two books of fines to be kept, and certificates to be made into the exchequer, as before.]

[XXV (xxviii.)] Provided always . . . that no sentence definitive of any cause or matter determinable by virtue of this commission shall hereafter be given without the personal presence, hearing and full assent of five or more of you our said commissioners, whereof [the Archbishop, Lord Chancellor, Lord Treasurer, Lord Privy Seal, the Bishops of London, Winchester, Exeter, Lichfield, Chichester, Rochester, or Gloucester, and five others] to be one, anything before in these presents contained to the contrary in anywise notwithstanding;[1] *without alteration nevertheless of any direction before in these presents*

[1] Added in 1613.

given concerning the persons that are to be of the quorum in the cases of grievance between husband and wife only.

[XXVI (xxix.)] [Seal to be affixed, as before.]

[XXVII (xxx.)] And our will and pleasure is, and we do hereby signify and declare unto you our said commissioners and to all other our loving subjects, that it shall be lawful for any persons that shall hereafter be sentenced by you by virtue of this our commission, which shall find themselves grieved by reason of any such sentence, to become suitors unto us by way of supplication as of our grace to have a commission of review to be granted by us for the re-examination of their cause.

[XXVIII (xxxi.)] [General order to sheriffs, &c. to assist the commissioners, as before.]

[XXIX.] And to the end that this form of commission for causes ecclesiastical and none other be holden in all parts throughout the realm, We do by these presents revoke and cancel all former commissions for ecclesiastical causes in all parts whatsoever, and do declare our will and pleasure to be, that the same shall cease, determine and be utterly void, such commissions as we have granted by way of appeal in ecclesiastical causes between party and party to judges delegated only excepted.

[Dated] Westminster, August 29.

Pat. Roll, 9 *Jac. I*, Part 18.

[The commission of 1613 substitutes for § XXIX of 1611 the following:]

[xxxii.] Lastly, we . . . give authority unto you the said George, Lord Archbishop of Canterbury, . . . and unto all other our commissioners named by our former commission lately granted the 29th day of August in the ninth year of our reign of England . . ., that they and such of them as by our said commission are authorised in that behalf may present, hear and determine all causes and matters before the date hereof commenced and at the time of the making hereof depending before the same commissioners, . . . and also to proceed to the execution of their sentences . . . as they might have done before the making of these presents: this our present commission . . . or any other matter . . . notwithstanding.

[Dated] Westminster, June 21.

Pat. Roll, 11 *Jac. I*, Part 15.

[The Commission of 1625 adds the following section:]

[xxxiii.] Provided always . . . that when the convocation of the clergy for the province of Canterbury shall be assembled, by reason whereof there will be always at hand for the execution of this our commission such competent number of the bishops aforesaid as there will not need the assistance of any other of our commissioners above-named, that then, during the continuance of any such assembly, . . . the said bishops only to be assembled in the said convocation shall proceed in the execution of our said commission; and that in their Convocation House only and not elsewhere; and that no others of our said commissioners above-named shall intermeddle with the execution of this our commission during the continuance of any such convocation.

[Dated] Westminster, Jan. 21.

Rymer's Fœdera, vol. XVII. p. 661

II. Extracts from Ecclesiastical Writers.

1. Laud.

(a) *Sermon III*[1]*: Psalms cxxii.* 3, 4, 5.

I know there are some that think the Church is not yet far enough beside the cushion: that their seats are too easy yet, and too high too. A parity they would have, no bishop, no governor, but a parochial consistory, and that should be lay enough too. Well, first, this parity was never left to the church by Christ. He left apostles, and disciples under them: no parity. It was never in use with the church since Christ. No church ever anywhere (till this last age) without a bishop . . . And one thing more I will be bold to speak out of a like duty to the Church of England and the house of David. They, whoever they be, that would overthrow *sedes ecclesiae*, the seats of ecclesiastical government, will not spare (if ever they get power) to have a pluck at the throne of David. And there is not a man that is for parity, all fellows in the church, but he is not for monarchy in the state.

[1] Preached 6 Feb., 1625-6, at the opening of Parliament.

(b) *Sermon IV*[1]*: Psalms lxxv. 2, 3.*

The King's power, that is from God: the judges' and the subordinate magistrates' power, that is from the King: both are for the good of the people, that they may lead a peaceable life in all godliness and honesty. All judges and courts of justice, even this great congregation, this great council now ready to sit, receive influence and power from the King, and are dispensers of his justice, as well as their own, both in the laws they make and in the laws they execute: in the causes which they hear and in the sentences which they give: the King God's High Steward, and they stewards under him.

(c) *Sermon V*[2]*: Psalms lxxiv. 22.*

God's cause is at trial; but what cause of his is it that is particularly meant in this place? ... First, the magistrate and his power and justice. And resist either of these, and ye resist 'the power and the ordinance of God' (Rom. xiii. 2)[3]. There is God's cause plain. And the eye of nature could see *aliquid divinum*, somewhat that was divine, in the governors and orderers of commonwealths... And therefore the school concludes, 'that any the least irreverence of a King—as to dispute of his judgments, and whether we ought to follow and obey him—*sacrilegium dicitur*, is justly extended to be called sacrilege.' And since all sacrilege is a violation of something that is holy, it is evident that the office and person of the King is sacred: sacred, and therefore cannot be violated by the hand, tongue or heart of any man, that is by deed, word or thought, but 'tis God's cause, and he is violated in him. And here Kings may learn if they will, I am sure 'tis fit they should, that those men which are sacrilegious against God and his Church, are, for the very neighbourhood of the sin, the likeliest men to offer violence to the honour of princes first and their persons after.

Seven Sermons preached ... by William Laud, &c., ed. 1651.

[1] Preached before the King, 19 June, 1625.
[2] Preached before the King, 5 July, 1626.
[3] 'Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation' (Rom. xiii. 1, 2).

2. Sibthorpe.

Sermon[1] *on Apostolic Obedience: Romans xiii. 7.*

The prince . . . hath his duty to direct, command and protect . . . Which duties being performed by a Sovereign, he may rightly require these dues of subjects; yea, whether he perform his duty or not, he may require these dues of them, . . . to be honoured, obeyed and maintained . . . And as rulers may justly challenge this honour to their persons, so may they with no less right call for obedience to their laws and commands, . . . whether the prince be a believer or an infidel, whether he rule justly or unjustly, courteously or covetously and cruelly. For whereas there are but *duo legis termini*, two effects of the law—the one to perform the commandment, the other to undergo the punishment—if princes command anything which subjects may not perform, because it is against the laws of God or of nature, or impossible, yet subjects are bound to undergo the punishment without either resistance or railing or reviling, and so to yield a passive obedience, where they cannot exhibit an active one . . .

Tribute, being due to princes by a triple obligation, . . . by the law of God, as the sign of our subjection; by the law of nature, as the reward of their pains and protection; by the law of nations, as the sinews of the state's preservation . . . The consideration of which things (no question) made . . . all antiquity to be absolutely for absolute obedience to princes in all civil or temporal things; and the more moderate modern divines . . . acknowledge in this particular, that if a prince impose an immoderate, yea an unjust tax, yet the subject may not thereupon withdraw his obedience and duty; nay he is bound in conscience to submit.

Apostolic Obedience, shewing the Duty of Subjects to pay Tribute and Taxes to their Prince . . . ed. 1626.

[1] Preached at the Assizes at Northampton, 22 Feb., 1626.

3. Maynwaring.

Sermon I[1]*: Eccles. viii. 2.*

To ingeminate again the parts of the text; 1. *Rex*, a King: and what is higher in heaven or earth than a King, God only excepted? . . . 2. *Mandatum Regis*: and what is stronger than it? . . . 3. Obedience to this commandment: and what more rightful, just and equal with men? What with God more acceptable? . . .

Among all the powers that be ordained of God the regal is most high, strong and large: . . . No power in the world or in the hierarchy of the church can lay restraint upon these supremes . . . Now to this high, large and most constraining power of Kings, not only nature, but even God himself gives from heaven most full and ample testimony, and that this power is not merely human but superhuman and indeed no less than a power divine . . . That sublime power therefore which resides in earthly potentates is not a derivation or collection of human power scattered among many and gathered into one head, but a participation of God's own omnipotency, which he never did communicate to any multitudes of men in the world, but only and immediately to his own vicegerents . . .

The second point was *Mandatum Regis*; the commandment of the King . . . All the significations of a royal pleasure are, and ought to be, to all loyal subjects in the nature and force of a command . . . Nay, though any King in the world should command flatly against the law of God, yet were his power no otherwise at all to be resisted, but (for the not doing of his will in that which is clearly unlawful) to endure with patience whatsoever penalty his pleasure should inflict upon them who in this case would desire rather to obey God than man . . . But on the other side, if any King shall command that which stands not in any opposition to the original laws of God, nature, nations and the Gospel (though it be not correspondent in every circumstance to laws national and municipal), no subject may, without hazard of his own damnation in rebelling against God, question or disobey the will and pleasure of his Sovereign.

[1] Preached at Oatlands, 4 July, 1627.

. . . To Kings therefore in all these respects nothing can be denied (without manifest and sinful violation of law and conscience) that may answer their royal state and excellency, that may further the supply of their urgent necessities . . .

The third point is obedience . . . But there be pretenders of conscience against obedience; of religion against allegiance; of human laws against divine; of positive against natural; and so of man's wisdom against the will and wisdom of God . . . First, if they would please to consider that, though such assemblies as are the highest and greatest representations of a kingdom be most sacred and honourable and necessary also for those ends to which they were at first instituted, yet know we must, that ordained they were not to this end, to contribute any right to kings whereby to challenge tributary aids and subsidiary helps, but for the more equal imposing and more easy exacting of that which unto Kings doth appertain by natural and original law and justice, as their proper inheritance annexed to their imperial crowns from their very births. And therefore, if by a magistrate that is supreme, if upon necessity extreme and urgent, such subsidiary helps be required:—a proportion being held respectively to the abilities of the persons charged, and [so that] the sum or quantity so required surmount not too remarkably the use and charge for which it was levied:—very hard would it be for any man in the world, that should not accordingly satisfy such demands, to defend his conscience from that heavy prejudice of resisting the ordinance of God and receiving to himself damnation; though every of those circumstances be not observed which by the municipal laws is required[1].

Religion and Allegiance, in two sermons . . . by Roger Maynwaring . . . ed. 1627.

[1] 'By whom this doctrine [of the monarchy *jure divino*] came at first to be broached and brought in fashion amongst us, and what sad effects it gave rise to, I leave to historians to relate, or to the memory of those who were contemporaries with Sibthorp and Manwering to recollect.' (*Locke, Of Government*, cap. I.)

'There is too much cause to fear that the unhappy publication of this doctrine against the liberty and property of the subject (which others had the honour to declare before Mr Hobbes . . . I mean Dr Manwaring and Dr Sibthorpe), contributed too much thereunto [i. e. to the late rebellion].' (*Clarendon, A Survey of the Leviathan*, p. 55.)

APPENDIX.

5 Eliz. Cap. XVIII.

An Act declaring the authority of the Lord Keeper of the Great Seal of England and the Lord Chancellor to be one.

Where some question hath of late risen, whether like . . . jurisdiction and power doth belong and of right ought to belong to the office of the Lord Keeper of the Great Seal of England for the time being, as of right doth and ought to belong to the office of the Lord Chancellor of England for the time being, or not: . . . Be it enacted . . . That the Common Law of this realm is and always was . . . that the Keeper of the Great Seal of England for the time being hath always had and of right ought to have and from henceforth may have, as of right belonging to the office, . . . the same . . . jurisdiction . . . and advantages as the Lord Chancellor of England for the time being . . . as if the same Keeper of the Great Seal for the time were Lord Chancellor of England.

Influence of the Crown in Parliamentary Elections, 1570.

The Lords of the Council to Archbishop Parker and Lord Cobham.

. . . Where the Queen's Majesty hath determined . . . to have a parliament holden at Westminster this next April, . . . her Majesty hath called to her remembrance . . . that though the greater number of knights, citizens and burgesses for the more part are duly and orderly chosen, yet in many places such consideration is not usually had herein as reason would, that is, to choose persons able to give good information and advice for the places for which they are nominated, and to treat and consult discreetly upon such matters as are to be propounded to them. . . . and therefore . . . have we for this purpose made special choice of your lordships, requiring you . . . to confer with the

sheriff of that shire of Kent . . . and with such special men of livelihood and worship of the same county as have interest herein, and in like manner with the head officers of cities and boroughs, so as by your good advice and direction the persons to be chosen may be well qualified with knowledge, discretion and modesty, and meet for those places. . . . 17th Feb. 1570.

Parker Correspondence, pp. 379–381.

Udall's Case: Interpretation of Stat. 23 Eliz. 2.

At the Assizes at Croydon the 24th July, 1590.

Mr Udall was called. . . . Then was his indictment read. . . . The form of which indictment was . . . that he, not having the fear of God before his eyes, but being stirred up by the instigation and motion of the Devil, did maliciously publish a slanderous and infamous libel against the Queen's Majesty, her crown and dignity. . . .

Judge Clarke.—You of the jury have not to enquire whether he be guilty of the felony, but whether he be the author of the book; for it is already set down by the judgment of all the judges in the land, that whosoever was author of that book was guilty by the statute of felony, and this is declared above half a year agone.

Udall.—Though it be so determined already, yet I pray your Lordships give me leave to shew . . . that though I were found to be the author, yet it cannot be within the compass of that statute, anno 23 Eliz. cap. 2, whereupon the indictment is framed. . . .

Judge Clarke.—We have heard you speak for yourself to this point at large, which is nothing to excuse you; for you cannot excuse yourself to have done it with a malicious intent against the bishops, and that exercising their government which the Queen hath appointed them, and so it is by consequence against the Queen. . . .

Judge Clarke.—This book hath made you to come within the compass of the Statute, though your intent were not so, for I am sure there was Mr Stubbs, well known to divers here to be a good subject and an honest man; yet taking upon him to write a book against her Majesty, touching Monsieur, he thereby came within the compass of law, which he intended not in making of the book; and . . . if this law had been made then, which was made since, he had died for it. . . .

Udall.—My Lords, his case and mine is not alike, for his book concerned her Highness' person, but the author of this

book toucheth only the corruptions of the bishops, and therefore not the person of her Majesty.

Judge.—But I will prove this book to be against her Majesty's person, for her Majesty, being the supreme governor of all persons and causes in these her dominions, hath established this kind of government, in the hands of the bishops, which thou and thy fellows so strive against; and they being set in authority for the exercising of this government by her Majesty, thou dost not strive against them, but her Majesty's person, seeing they cannot alter the government which the Queen hath laid upon them . . . .[1]"

State Trials, i. 171–175.

Taxation by the Commons: Speech of Mr Francis Bacon, March 3, 1593.

He yielded to the subsidy, but misliked that this house should join with the upper house in the granting of it. For the custom and privilege of this house hath always been, first to make offer of the subsidies from hence, then to the upper house; except it were that they present a bill unto this house, with desire of our assent thereto, and then to send it up again. And reason it is, that we should stand upon our privilege, seeing the burthen resteth upon us, as the greatest number; nor is it reason the thanks should be theirs. And in joining with them in this motion, we shall derogate from ours; for the thanks will be theirs and the blame ours, they being the first movers. Wherefore I wish, that, in this action, we should proceed, as heretofore we have done, apart by ourselves, and not join with their lordships.

D'Ewes' Journals, p. 483.

Proclamation of Martial Law, 1595.

Elizabeth by the grace of God, &c. To our trusty and well-beloved servant, Sir Thomas Willford, Knight, greeting. Forasmuch as we understand that of late there have been sundry great unlawful assemblies of a number of base people in riotous sort, both in our city of London and in the suburbs of the same and in some other parts near to our said city, for the suppression whereof, although there hath been some proceedings

[1] Judgment was given against Udall in Feb. 1591. He was reprieved, but not pardoned, and died in prison, 1592.

in ordinary manner by the Mayor of the said city, and sundry offenders committed to several prisons, and have also received corporal punishment by direction and order of our Council in the Star Chamber at Westminster . . . Yet, for that the insolence of many of this kind of desperate offenders is such as they care not for any ordinary punishment . . . we find it necessary to have some such notable, rebellious and incorrigible persons to be speedily suppressed by execution to death according to the justice of our martial law; and therefore we have made choice of you . . . to be our Provost-Marshall, giving you authority, and so we command you, upon signification given to you by our justices of peace in our city of London or of any place near to our said city in our counties of Middlesex, Surrey, Kent and Essex, of such notable and rebellious and incorrigible offenders worthy to be speedily executed by martial law, to attach and take the same persons, and in the presence of the said justices, according to justice of martial law, to execute them upon the gallows or gibbet openly. . . . And furthermore we authorize you to repair with a convenient company into all common highways near to our said city, where you shall understand that any vagrant persons do haunt, and, calling to your assistance some convenient number of our justices and constables abiding about the said places, to apprehend all such vagrant and suspected persons and them to deliver to the said justices, by them to be committed and examined of the causes of their wandering, and finding them notoriously culpable in the unlawful manner of life, as incorrigible and so certified to you by the said justices, you shall by our law martial cause to be executed upon the gallows or gibbet some of them that are so found most notorious and incorrigible offenders. . . . And this our authority committed to you to continue in force until that we or our Council shall signify unto you our pleasure to determine the same. [Dated July 18.] Per breve de Privato Sigillo.

Rymer's Fœdera, XVI. p. 279.

The Canons of 1604.

III. Whosoever shall hereafter affirm that the Church of England by law established under the King's Majesty is not a true and an apostolical church, teaching and maintaining the doctrine of the apostles, let him be excommunicated *ipso facto* and not restored, but only by the archbishop, after his repentance and public revocation of this his wicked error.

IV. Whosoever shall hereafter affirm that the form of God's worship in the Church of England, established by law and contained in the book of Common Prayer and administration of Sacraments, is a corrupt, superstitious or unlawful worship of God, or containeth anything in it that is repugnant to the scriptures, let him be excommunicated *ipso facto* and not restored but by the bishop of the place or archbishop. . . .

V. Whosoever shall hereafter affirm that any of the nine and thirty Articles . . . are in any part superstitious or erroneous or such as he may not with a good conscience subscribe unto, let him be excommunicated *ipso facto* and not restored, but only by the archbishop. . . .

VI. Whosoever shall hereafter affirm that the rites and ceremonies of the Church of England by law established are wicked, anti-christian or superstitious, or such as, being commanded by lawful authority, men who are zealously and godly affected may not with any good conscience approve them, use them, or as occasion requireth subscribe unto them, let him be excommunicated. . . .

VII. Whosoever shall hereafter affirm that the government of the Church of England under his Majesty by archbishops, bishops, deans, archdeacons and the rest that bear office in the same, is anti-christian or repugnant to the word of God, let him be excommunicated. . . .

IX. Whosoever shall hereafter separate themselves from the communion of saints, as it is approved by the apostles' rules, in the Church of England, and combine themselves together in a new brotherhood, . . . let them be excommunicated. . . .

XI. Whosoever shall hereafter affirm or maintain that there are within this realm other meetings, assemblies or congregations of the King's born subjects than such as by the laws of this land are held and allowed, which may rightly challenge to themselves the name of true and lawful churches, let him be excommunicated. . . .

XII. Whosoever shall hereafter affirm that it is lawful for any sort of ministers and lay-persons, or either of them, to join together and make rules, orders or constitutions in causes ecclesiastical, without the King's authority, and shall submit themselves to be ruled and governed by them, let them be excommunicated *ipso facto* and not be restored until they repent and publicly revoke those their wicked and anabaptistical errors.

Cardwell, Synodalia, I. p. 249.

Judgment of Lord Chancellor Ellesmere, in Calvin's Case, June, 1608.

. . . Thus I have here delivered my concurrence in opinion with my lords the judges, and the reasons that induce and satisfy my conscience that Ro. Calvine, and all the post-nati in Scotland, are in reason and by the common law of England natural-born subjects within the allegiance of the King of England, and enabled to purchase and have freehold and inheritance of lands in England and to bring real actions for the same in England.

State Trials, XI. p. 106.

Jurisdiction of the House of Lords, 1624.

Whereas this High Court of the Upper House of Parliament do often find cause in their judicature to impose fines amongst other punishments upon offenders, for the good example of justice and to deter others from like offences; it is ordered and declared that at the least once before the end of every session, the committees for the orders of the house and privileges of the lords of Parliament do acquaint the Lords with all the fines that have been laid that session. . . .

Standing Orders of the Lords, No. 98: *May, Parl. Practice*, p. 101.

Opinion of the Judges touching Imprisonments by Order of the Queen or the Council, 1591.

To the right honourable our very good lords, Sir Christopher Hatton, of the honourable order of the Garter knight, Lord Chancellor of England, and Sir William Cicill, of the honourable order of the Garter knight, Lord Burghley, Lord High Treasurer of England.

We, her Majesty's Justices of both Benches and Barons of the Exchequer, do desire your Lordships that by your good means such order may be taken that her Highness' subjects may not be committed or detained in prison by commandment of any

nobleman or counsellor against the laws of the realm, to the grievous charges and oppression of her Majesty's said subjects: or else help us to have access to her Majesty to be suitors unto her Highness for the same. For divers have been imprisoned for suing ordinary actions and suits at the Common law until they will leave the same, or against their wills put their matter to order, although sometime it be after judgment and execution.

Item, others have been committed and detained in prison upon such commandment against the law, and upon the Queen's writ in that behalf, no cause sufficient hath been certified or returned.

Item, some of the parties so committed and detained in prison, after they have by the Queen's writ been lawfully discharged in court, have been eftsoons re-committed to prison in secret places and not in common and ordinary known prisons, at the Marshalsea, Fleet, King's Bench, Gatehouse, nor the custody of any sheriff, so as upon complaint made for their delivery the Queen's court cannot learn to whom to award her Majesty's writ, without which justice cannot be done.

Item, divers serjeants of London and officers have been many times committed to prison for lawful executing of her Majesty's writs out of the King's Bench, Common Pleas, and other courts, to their great charges and oppression, whereby they are put in such fear as they dare not execute the Queen's process.

Item, divers have been sent for by pursuivants for private causes, some of them dwelling far distant from London, and compelled to pay to the pursuivants great sums of money against the law, and have been committed to prison till they would release the lawful benefit of their suits, judgments or executions; for remedy in which behalf we are almost daily called upon to minister justice according to law, whereunto we are bound by our office and oath.

And whereas it pleased your Lordships to will divers of us to set down when a prisoner sent to custody by her Majesty, her council, or some one or two of them, is to be detained in prison and not delivered by her Majesty's courts or Judges:

We think that if any person shall be committed by her Majesty's special commandment or by order from the Council-Board, or for treason touching her Majesty's person, any of which[1] causes being generally returned into any court is good cause for the same court to leave the person committed in

[1] Probably a mistake for "such."

custody. But if any person shall be committed for any other cause, then the same ought specially to be returned [1].

C. Wray.	Thos. Geint.
Edm. Anderson.	Robt. Clerke.
Roger Manwood.	W. Peryam.
Fra. Wyndam.	Tho. Walmysley
J. Clenche.	Edward Fenner.
Francis Gaudy.	

Endorsed.—9 Junii 1591. A declaration of all the Judges of sundry misusages in committing men to prison without lawful cause.

Lansdowne MSS. lxviii. 87.

First Charter to the East India Company, December 31, 1600.

Elizabeth, by the grace of God [&c.]. Whereas our most dear and loving cousin, George, Earl of Cumberland, and our well-beloved subjects, Sir John Harte, of London, knight, Sir John Spencer, of London, knight, Sir Edward Michelborne, knight, William Cavendish, esquire, Paul Banninge, Robert Lee, Leonard Hollydaye, John Watts, John Moore, Edward Holmeden, Robert Hampson, Thomas Smithe, and Thomas Campbell, citizens and aldermen of London, [and 204 others] have of our certain knowledge been petitioners unto us for our royal assent and license to be granted unto them, that they, at their own adventures, costs and charges, as well for the honour

[1] This document, in a form presenting wide differences from that of the MS., is printed in Anderson's Reports (ed. 1664), pt. I, pp. 297, 298, with the following heading:

Divers persons fuerunt commits a several temps a several prisons sur pleasure, sans bone cause; part de queux esteant amesnes en Bank le Roy, et part en le commun Bank fuerunt accordant a la ley de terre mises a large et discharge de le imprisonment; pur que ascun grands fuerunt offend et procure un commandment a les Juges que ils ne ferront issint apres ceo; neint meins les Juges ne surcease, mes per advice enter eux ils fesoint certein articles, le tenor de queux ensua, et deliver eux al Seigniors Chancellor et Treasurer, et eux subscribe oue touts leur mains: les articles sont come ensua, scil.

At the end the following words are added:

All the Judges and Barons, &c. did subscribe their names to these articles, T. P. 34 Eliz. [i. e. Easter Term, 1593], and deliver one to the Lord Chancellor and one other to the Lord Treasurer; after which time there did follow more quietness than before in the causes before mentioned.

It can hardly be doubted that the form given in the MS. is the final one, for the signatures of the Judges are autograph. Hallam (*Const. Hist.* i. 234) has printed the same document from the MS., but with some defects.

of this our realm of England as for the increase of our navigation and advancement of trade of merchandise within our said realm and the dominions of the same, might adventure and set forth one or more voyages, with convenient number of ships and pinnaces, by way of traffic and merchandise to the East Indies, in the countries and parts of Asia and Africa, and to as many of the islands, ports, cities, towns and places thereabouts, as where trade and traffic of merchandise may by all likelihood be . . . had; divers of which countries and many of the islands, cities and ports thereof, have long since been discovered by others of our subjects, albeit not frequented in trade of merchandise:

[2] Know ye therefore that we, greatly tendering the honour of our nation, the wealth of our people, and the encouragement of them and others of our loving subjects in their good enterprises, for the increase of our navigation and the advancement of lawful traffic to the benefit of our commonwealth, have . . . granted . . . unto our said loving subjects . . . that they from henceforth be one body corporate and politic, in deed and in name, by the name of the Governor and Company of Merchants of London trading into the East Indies, . . . and that by the same name of the Governor [&c.] they shall have succession, and that they and their successors, by the name of the Governor [&c.], shall be at all times hereafter . . . capable in law to have . . . and retain lands, tenements, liberties, privileges, jurisdictions, franchises and hereditaments of whatsoever kind . . .; and also to give . . . and dispose lands, tenements and hereditaments, and to do and execute all other things, by the same name, that to them shall appertain to do.

[3] And that they and their successors, by the name of the Governor [&c.], may plead and be impleaded . . . in whatsoever courts and places . . . in all actions . . . causes and demands whatsoever . . . in such manner as any other our liege people of this our realm of England, being persons able and capable in law, may or can have, purchase, . . . plead and be impleaded, . . . do, permit and execute.

[4] And that the said Governor [&c.] may have a common seal . . . [no arms or legend determined].

[5] And further . . . we do ordain that there shall be from henceforth one of the same Company, to be elected and appointed in such form as hereafter in these presents is expressed, which shall be called the Governor of the said Company; and that there shall be from henceforth twenty-four of the said Company, to be elected and appointed in such form as hereafter in these

presents is expressed, which shall be called the Committees of the said Company, who, together with the Governor . . . shall have the direction of the voyages of or for the said Company, and the provision of the shipping and merchandises thereto belonging, and also the sale of all merchandises returned in the voyages . . . and the managing and handling of all other things belonging to the said Company: and for the better execution of this our will and grant in this behalf, we have assigned . . . and make the said Thomas Smythe [sic], Alderman of London, to be the first and present Governor of the said Company, . . . and also we have assigned . . . and make the said Paul Banning [and twenty-three others] to be the four and twenty first and present Committees of the said Company . . .

[6] And further we will . . . that it shall be lawful for the said Governor and Company . . . present at any public assembly, commonly called the Court, holden for the said Company, the Governor . . . being always one, from time to time to elect and appoint one of the said Company to be Deputy to the said Governor [such Deputy, after taking an oath, to be empowered to act in the absence of the Governor].

[7] And further we grant . . . unto the said Governor [&c.] that they or the greater part of them (whereof the Governor . . . or his Deputy to be one), . . . shall have power yearly on the first day of July, or at any time within six days after that day, to assemble in some convenient place, to be appointed from time to time by the Governor or in his absence by the Deputy . . . and . . . to elect one of the said Company, which shall be Governor . . . for one whole year [the Governor-elect to take an oath before entering on office].

[8] [Every member of the Company to take an oath before the Governor or Deputy.]

[9] [Power to elect a Committee of twenty-four yearly in the first week of July; members of the Committee to take an oath.]

[10] [Provision for election of a new Governor in the place of one dying, or being removed (on account of misbehaviour) by the majority of the Company present at a General Court, during his year of office.]

[11] [Similar provision in case of the death or removal of a member of Committee.]

[12] And further we . . . grant unto the said Governor [&c.], that they . . . and all the sons of them at their several ages of one-and-twenty years or upwards, and further all such the apprentices, factors and servants of them which hereafter shall

be employed by the said Governor [&c.] . . . may, by the space of fifteen years from the feast of the birth of our Lord God last past before the date hereof, freely traffic and use the trade of merchandise by seas, in and by such ways and passages . . . as they shall esteem to be fittest, into and from the said East Indies, in the countries and parts of Asia and Africa, and into and from all the islands . . . and places of Asia and Africa and America, beyond the Cape of Bone Sperancia to the Straits of Magalan, . . . in such order . . . as shall be, from time to time, at any public assembly or court held by or for the said Governor [&c.] . . . the Governor or his Deputy being always present at such court or assembly, limited and agreed, and not otherwise, . . . any statute, usage, diversity of religion or faith, . . . to the contrary notwithstanding: so always the same trade be not undertaken to any country . . . or place already in the lawful and actual possession of any such Christian prince or state as at this present is or at any time hereafter shall be in league or amity with us, our heirs and successors, and who doth not accept of such trade but doth overtly declare the same to be utterly against his or their good-will and liking.

[13] [Power, within the next fifteen years, to make laws and ordinances for the government of the Company, and to revoke the same] and that the said Governor and Company, so often as they shall make . . . such laws . . . or ordinances, in form aforesaid, may lawfully impose . . . such pains and penalties, by imprisonment of body, or by fines and amercements, or by all or by any of them, upon all offenders contrary to such laws . . . and ordinances, as to the said Governor [&c.] . . . shall seem necessary . . .; and the same fines and amercements may levy . . . to the use of the said Governor [&c.] . . . without any account therefore to us [&c.] to be made; . . . so always as the said laws, . . . imprisonments, fines and amercements be reasonable and not contrary to the laws, statutes, or customs of this our realm.

[14] And for as much as the said Governor [&c.] have not yet experience of the kinds of commodities and merchandises which are or will be vendible . . . in the said parts of the East Indies, and therefore shall be driven to carry to those parts . . . sundry commodities which are likely to be returned again into this our realm; we therefore . . . do grant unto the said Governor [&c.] that they and their successors, during the four first voyages which they shall make towards the said East Indies, may transport out of our realm of England . . . all such and so much goods and merchandises, being goods [&c.]

lawfully passable and transportable . . . as shall be by them shipped . . . in any of the said four first voyages, free of custom, . . . or any other duties . . .; and yet nevertheless our will and pleasure is . . . that all such goods [&c.] . . . be duly entered by the customer . . . where the same goods [&c.] shall happen to be shipped . . .

[15] And also . . . we do for us [&c.] grant to the said Governor [&c.] that when and as often, during the said space of fifteen years, as any custom . . . or other duties shall be due unto us [&c.] for any goods [&c.] whatsoever, to be returned from any the islands . . . or places aforesaid unto our port of London or any of the . . . places to the same port belonging, that the customers and all other officers . . . unto whom it shall appertain, shall upon the request of the Governor [&c.] give unto the said Governor [&c.] six months time for the payment of the one-half and . . . other six months time for the payment of the other half of their said customs . . .

[16] And that also, as often at any time during the said term of fifteen years, any goods [&c.] of the said Governor [&c.], laden from our port of London or any . . . places to the same port belonging, to be transported to any . . . places aforesaid, shall happen to miscarry or be lost before their safe arrival in the ports to which the same shall be sent, that then and so often so much custom . . . as they answered to us for the same . . . shall, after due proof made before the Treasurer of England . . . be by virtue hereof allowed to the said Governor [&c.] . . . in the next goods [&c.] that the said Governor [&c.] may ship towards those ports . . .

[17] And for that the said Governor [&c.] are like to bring to this our realm a much greater quantity of foreign commodities from the parts of the said East Indies than can be spent for the necessary use of the same our realm, which of necessity must be transported into other countries and there vented, we . . . do grant to the said Governor [&c.] that at all times during the space of thirteen months next after the discharge of any the same foreign commodities so to be brought in, the . . . duties for the same being first paid or compounded for as aforesaid, it shall be lawful for the said Governor [&c.] or any other the natural subjects of this our realm which shall buy the same of them, to transport the same in English bottoms freely out of this realm, as well ungarbled as garbled[1], without payment of any further custom . . .

[1] i. e. sifted or bolted: used particularly of spices.

[18] And moreover we . . . grant unto the said Governor [&c.] that it shall be lawful for them, in their first voyage or fleet which is now in preparing for their first adventure to the said East Indies, to transport out of this our realm of England all such foreign coin of silver . . . as they have procured . . . or shall procure . . . as likewise all such other coin of silver as they have procured or shall procure to be coined in our mint, within our Tower of London out of such plate or bullion as is or shall be provided by the said Governor [&c.] before the going forth of the same fleet . . . so as the whole quantity of monies to be transported in this their said first voyage do not exceed the sum of £30,000, and so as the sum of £6,000 at the least, parcel of the said sum of £30,000, be first coined in our mint . . .

[19] And in like manner we . . . grant unto the said Governor [&c.] that it shall be lawful to the said Governor [&c.] after the said first voyage set forth, yearly during the residue of the said term of fifteen years to transport out of this our realm in any their other voyages towards any the parts aforesaid . . . all such foreign coin of silver . . . or bullion of silver as they shall during the said term bring into this realm . . . to be coined within our mint . . . at their pleasure; so as the whole quantity of monies to be transported in any their said voyages . . . do not exceed the sum of £30,000 in any one voyage, and so as the sum of £6,000 [as before] be first coined within our said Tower of London . . .

[20] And further we . . . grant unto the said Governor [&c.] that they [&c.], for them and on their behalf and not otherwise, shall, for the said term of fifteen years, have . . . the whole entire and only liberty, use and privilege of trading and trafficking . . . to and from the said East Indies and to and from all the . . . places aforesaid, in such manner as is above mentioned . . .

[21] And for that the ships sailing into the said Indies must take their due and proper times to proceed in these voyages, which otherwise, as we well perceive, cannot be performed in the rest of the year following, therefore we . . . grant to the said Governor [&c.] that, in any time of restraint, six good ships and six good pinnaces, well furnished with ordnance and other munitions for their defence, and five hundred mariners, English men, to guide and sail in the same . . . shall quietly be permitted to depart in the said voyages . . . without any stay or contradiction by us [&c.], or by the Lord High Admiral or any other officer or subject . . . Provided never-

theless that, if we shall at any time . . . have just cause to arm our navy in warlike manner in defence of our realm or for offence of our enemies, or that it shall be found needful to join to the navy of us [&c.] the ships of our subjects, to be also armed for the wars, to such a number as cannot be supplied if the said six ships [&c.] should be permitted to depart . . . then upon knowledge given by us [&c.] or by our Admiral . . . three months before the said Governor [&c.] shall begin to make ready the same . . . that then the said Governor [&c.] shall forbear to send six such ships [&c.] . . . until that we shall revoke our said navy from the said service.

[22] And we . . . grant to the said Governor [&c.] that the said East Indies . . . shall not be visited . . . by any of the subjects of us [&c.] during the said term of fifteen years, contrary to the true meaning of these presents: and by virtue of our prerogative royal, which we will not in that behalf have argued or brought in question, we straitly charge . . . all the subjects of us [&c.] that none of them, directly or indirectly, do visit . . . or trade . . . into or from any of the said East Indies or into or from any . . . the places aforesaid other than the said Governor [&c.] . . . unless it be by license and agreement of the said Governor [&c.] . . . upon pain that every such person . . . shall incur our indignation and the forfeiture and loss of the goods [&c.] which so shall be brought into this realm . . . contrary to our said prohibition . . . as also the ships, with the furniture thereof, wherein such goods [&c.] shall be brought: the one half of all the said forfeiture to be to us [&c.] and the other half . . . we do . . . grant unto the said Governor [&c.]; and further, all the said offenders . . . to suffer imprisonment during our pleasure, and such other punishment as to us [&c.] . . . shall seem-meet and convenient, and not to be in any wise delivered until they shall become bound unto the said Governor for the time being in the sum of £1,000 at the least, at no time thereafter, during this present grant, to sail or traffic into any of the said East Indies . . .

[23] [Power to the Company to license others, for any consideration, to trade into the East Indies; with promise that the Crown shall grant no such licenses.]

[24] [Power to admit apprentices and others to be members of the Company: with proviso that the Company may expel members not paying up their quota for the first voyage in due time.]

[25] And the said Governor [&c.] do . . . promise and grant

to us [&c.] that they . . . in all such voyages as they . . . shall make out of this realm by virtue of this our grant . . . (the first voyage only excepted), will, upon every return which shall be made back again into this realm . . . or within six months after every such return, bring into this our realm . . . as great or greater value in bullion of gold or silver, or other foreign coin of gold or silver, respectively, for every voyage (the first voyage only excepted), as shall be by force of these presents transported out of this realm . . .: [no silver to be shipped for transport except at London, Dartmouth or Plymouth; and all such silver transported, as also all gold and silver brought into the kingdom, by the Company, to be duly entered by the customer].

[26] Provided always . . . that these our letters patents . . . shall not in any sort extend to give any . . . authority unto the said Governor [&c.] to undertake any trade unto any country [&c. as in the proviso at the end of § 12].

[27] Provided also that if it shall hereafter appear to us [&c.] that this grant or the continuance thereof, in the whole or in any part thereof, shall not be profitable to us [&c.] or to this our realm, that then . . . after two years' warning to be given to the said Company . . . this present grant shall cease . . .

[28] And further . . . we grant to the said Governor [&c.], that, if at the end of the said term of fifteen years it shall seem meet unto the said Governor [&c.] that this present grant shall be continued, and if that also . . . we shall find the further continuance thereof profitable for us [&c.] and for our realm, with such conditions as are herein mentioned, or with some alteration or qualification thereof, that then we [&c.] at the instance and humble petition of the said Governor [&c.] . . . will grant unto the said Governor [&c.] . . ., and such other persons, our subjects, as they shall nominate, or shall be by us [&c.] newly nominated, not exceeding in number four-and-twenty, new letters patent . . . with like covenants . . . and articles as in these presents are contained, or with addition of other necessary articles, or changing of these into some other parts, for the full term of fifteen years then next following.

[29] Willing hereby [&c., as usual].

In witness whereof, &c.

Witness ourself, at Westminster, xxxi° die Decembris.

Per breve de privato sigillo.

Patent Roll, 4 *Eliz.* part 6 [1].

[1] Printed also in *Charters granted to the East India Company* (1773), pp. 3–26.

Charter to the Virginian Colonies, April 10, 1606.

James, by the grace of God [&c.]. Whereas our loving and well-disposed subjects Sir Thomas Gates and Sir George Somers, knights, Richard Hackluit, clerk, prebendary of Westminster, and Edward Maria Winghfeilde, Thomas Hannam and Raleigh Gilberde, esquires, William Parker and George Popham, gentlemen, and divers others of our loving subjects, have been humble suitors unto us, that we would vouchsafe unto them our license to make habitation, plantation, and to deduce a colony of sundry of our people into that part of America commonly called Virginia and other parts and territories in America, either appertaining to us or which are not now actually possessed by any Christian prince or people, lying all along the sea-coasts, between four-and-thirty degrees of northerly latitude from the equinoctial line and five-and-forty degrees of the same latitude, and in the mainland between the same four-and-thirty and five-and-forty degrees, and the islands thereunto adjacent or within one hundred miles of the coast thereof; and to that end, and for the more speedy accomplishment of their said intended plantation and habitation there, are desirous to divide themselves into two several colonies and companies, the one consisting of certain knights, gentlemen, merchants and other adventurers of our city of London and elsewhere which are and from time to time shall be joined unto them, which do desire to begin their plantations [&c.] in some fit and convenient place, between four-and-thirty and one-and-forty degrees of the said latitude, all alongst the coast of Virginia and coasts of America aforesaid; and the other consisting of sundry knights [&c.] of our cities of Bristol and Exeter and of our town of Plymouth and of other places which do join themselves unto that colony, which do desire to begin their plantations [&c.] in some fit and convenient place between eight-and-thirty and five-and-forty degrees of the said latitude, all alongst the said coast of Virginia and America, as that coast lieth:

[2] We, greatly commending and graciously accepting of their desires for the furtherance of so noble a work, which may, by the providence of Almighty God, hereafter tend to the glory of his divine Majesty, in propagating of Christian religion to such people as yet live in darkness and miserable ignorance of the true knowledge and worship of God, and may in time bring the infidels and savages living in those parts to humane civility

and to a settled and quiet government, do, by these our letters patents, graciously accept of and agree to their humble and well-intended desires; and do therefore, for us, our heirs and successors, grant and agree that the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, and Edward Maria Winghfeilde, adventurers of our city of London, and all such others as are or shall be joined unto them of that colony, shall be called the first colony; and they shall and may begin their said first plantation [&c.] at any place upon the said coast of Virginia or America where they shall think fit between the said four-and-thirty and one-and-forty degrees of the said latitude; and that they shall have all the lands, woods, soil, grounds, havens, ports, rivers, mines, minerals, marshes, waters, fishings, commodities and hereditaments whatsoever, from the said first seat of their plantation [&c.] by the space of fifty miles of English statute measure all alongst the said coast of Virginia and America towards the west and south-west[1], as the coast lieth, with all the islands within one hundred miles directly over against the said sea-coast; and also all the lands [&c.] whatsoever, from the said place of their first plantation [&c.] for the space of fifty like English miles all alongst the said coast of Virginia and America towards the east and north-east[2], as the coast lieth, together with all the islands within one hundred miles directly over against the same sea-coast; and also all the lands [&c.] whatsoever from the same fifty miles every way on the sea-coast directly into the mainland by the space of one hundred like English miles; and may inhabit and remain there, and may also build and fortify within any the same, for their better safeguard and defence, according to their best discretion and the discretion of the Council of that colony; and that no other of our subjects shall be permitted to plant or inhabit behind or on the backside of them towards the mainland, without the express consent of the Council of that colony thereunto in writing first obtained.

[3] And we do likewise . . . grant and agree that the said Thomas Hannam, Raleigh Gilberde, William Parker and George Popham, and all others of the town of Plymouth in the county of Devon or elsewhere which are or shall be joined unto them of that colony, shall be called the second colony; and that they

[1] The words "or towards the south" should probably be added here: cf. next §. They appear to have been accidentally omitted in the roll.

[2] The words "or towards the north" should probably be added here: cf. next §.

shall and may begin their said plantation [&c.] at any place upon the said coast of Virginia and America where they shall think fit between eight-and-thirty degrees of the said latitude, and five-and-forty degrees of the same latitude; and that they shall have all the lands [&c.] whatsoever from the first seat of their plantation [&c.] by the space of fifty like English miles as is aforesaid all alongst the said coast of Virginia and America towards the west and south-west or towards the south as the coast lieth; and all the islands within one hundred miles directly over against the said sea-coast; and also all the lands [&c.] whatsoever from the said place of their first plantation [&c.] for the space of fifty like miles all alongst the said coast of Virginia and America towards the east and north-east or towards the north as the coast lieth, and all the islands [&c. as before]; and also all the lands [&c. as before]; and may inhabit [&c. as before]; and that none of our subjects [&c. as before]. Provided always . . . that the plantation [&c.] of such of the said colonies as shall last plant themselves, as aforesaid, shall not be made within one hundred like English miles of the other of them that first began to make their plantation as aforesaid.

[4] And we do also ordain . . . that each of the said colonies shall have a Council, which shall govern and order all matters and causes . . . within the same several colonies, according to such laws, ordinances and instructions or shall be in that behalf given and signed with our hand or sign manual, and pass under the privy seal of our realm of England: each of which Councils shall consist of thirteen persons, and to be ordained and removed from time to time according as shall be directed in the same instructions; and shall have a several seal for all matters that shall pass or concern the same several Councils, each of which seals shall have the king's arms engraven on the one side thereof and his portraiture on the other [the legend to be, on one side, *Sigillum Regis Magne Britannie, Francie et Hibernie*, and on the other side, *Pro Consilio prime*, or *secunde Colonie Virginie*, respectively].

[5] And that also there shall be a Council established here in England, which shall in like manner consist of thirteen persons, to be for that purpose appointed by us, our heirs and successors, which shall be called our Council of Virginia, and shall from time to time have the superior managing and direction only of and for all matters that shall concern the government as well of the said several colonies as of and for any other part or place within the aforesaid precincts of four-and-thirty and

five-and-forty degrees above mentioned; which Council shall have in like manner a seal for matters concerning the Council, with the like arms and portraiture as aforesaid [the legend to be, on one side, *Sigillum &c.*, as before, and on the other, *Pro Consilio suo Virginie*].

[6] [Power to mine for gold, silver and copper, paying the king $\frac{1}{5}$ of the gold and silver and $\frac{1}{11}$ of the copper.]

[7] [Power to coin money, to pass current in the colonies.]

[8] [Power to take over adventurers, not specially restrained by the Crown, with shipping, armour, &c., necessary for the plantations.]

[9] [Power to repel intruders or others attempting to injure the plantations.]

[10] Giving and granting by these presents unto the said Sir Thomas Gates [&c.] at all times for ever hereafter authority to take and surprise . . . all persons, with their ships, . . . and other furniture, which shall be found trafficking into any harbour . . . or place within the limits of the said several colonies [&c.], not being of the same colony, until such time as they, being . . . under our obedience, shall pay or agree to pay to the hands of the treasurer of that colony within whose limits they shall so traffic, two-and-a-half upon any hundred of anything so by them trafficked, bought or sold; and being strangers and not subjects under our obeisance, until they shall pay five upon every hundred of such wares . . .; which sums of money or benefit, as aforesaid, during the space of one-and-twenty years next ensuing the date hereof, shall be wholly employed to the use . . . of the said several plantations where such traffic shall be made; and after the said one-and-twenty years ended, the same shall be taken to the use of us [&c.], by such officers and ministers as by us [&c.] shall be thereunto appointed.

[11] And we do further . . . grant unto the said Sir Thomas Gates [&c.] that they . . . may transport the goods, chattels, armour, munition and furniture, needful to be used by them . . . in respect of the said plantations, out of our realms . . . during the time of seven years next ensuing the date hereof, . . . without any custom, subsidy or other duty . . .

[12] Also we do, for us [&c.] declare by these presents that all the persons, being our subjects, which shall dwell within any of the said several colonies [&c.], and every of their children which shall happen to be born within any of the . . . said several colonies [&c.], shall have and enjoy all liberties, franchises and immunities within any of our other dominions, to all intents

and purposes, as if they had been abiding and born within this our realm of England or any other of our said dominions.

[13] Moreover our gracious will and pleasure is . . . that if any person, which shall be of any of the said colonies or any other, which shall traffic to the said colonies . . . shall at any time hereafter transport any wares [&c.] out of any our dominions, with a pretence and purpose to land, sell or otherwise dispose the same within any the . . . said colonies [&c.], and yet nevertheless, being at sea or after he hath landed the same within any of the said colonies [&c.], shall carry the same into any other foreign country, with a purpose there to sell or dispose of the same, without the license of us [&c.] first obtained, that then all the goods and chattels of such person so offending and transporting, together with the ship or vessel wherein such transportation was made, shall be forfeited to us [&c.]

[14] [Prohibition of robbery or acts of hostility, by sea or land, against any English subjects or those of any allied state.]

[15] And finally we do, for us [&c.] grant and agree with the said Sir Thomas Gates . . . and all others of the said first colony, that we [&c.], upon petition in that behalf to be made, shall by letters patents . . . grant unto such persons, their heirs and assigns, as the Council of that colony . . . shall for that purpose nominate, all the lands [&c.], which shall be within the precincts limited for that colony as is aforesaid, to be holden of us [&c.] as of our manor of East Greenwich in the county of Kent, in free and common soccage only, and not in capite. [Same grant to members of the second colony.] All which lands [&c.] so to be passed by the said several letters patents, shall be sufficient assurance from the said patentees so distributed and divided amongst the undertakers for the plantation of the said several colonies, and such as shall make their plantation in either of the said several colonies, in such manner and for such estates as shall be ordered and set down by the Council of the same colony . . . respectively, within which the same lands [&c.] shall lie.

In witness whereof, &c. Witness ourself at Westminster, the xth day of April.

Per breve de privato sigillo.

Pat. Roll, 4 Jac. I, part 19[1].

[1] Printed also by Alex. Brown. *Genesis of the United States*, i. 52–63.

Charter of the Merchant Adventurers, July 18, 1564.

De confirmatione pro Gubernatore et Mercatoribus Adventuariis Angliae.

Elizabeth by the grace of God Queen of England [&c.] To all and singular Justices . . . customers and keepers of our ports [&c.] greeting. Where our right noble grandfather of worthy memory Henry late king of England the Seventh by his letters patent reciting the purport of the charter granted by letters patent dated 28 September, 21 Henry VII, to the "Merchants Adventurers of this realm of England lately trading [to] the countries of Holland, Zealand, Brabant, Flanders and other places nigh adjoining for merchandise, by the name of Merchants Adventurers, subjects to the said late King, repairing, conversant, and abiding at his town of Calais and in the parts of Holland [&c.] and in other places beyond the seas being in amity with the said late King"]; Since the making of which said letters patent by our said grandfather, and by virtue of the same and of other letters patent made by certain others our noble progenitors sometimes Kings of England, the said Merchants Adventurers have from time to time hitherto, as often and whensoever it hath pleased them, lawfully in good and due order elected and chosen [a Governor and 24 Assistants] . . . And where also now of late the said Merchants Adventurers [by] divers restraints, edicts, and proclamations made and set forth by the governors and magistrates of the said countries of Holland [&c.] have been prohibited . . . to traffic and trade into the said countries . . . contrary to the ancient privileges . . . heretofore granted and . . . used; So that our said merchants are thereby occasioned . . . to traffic and trade . . . unto East Friesland, Hamburg, Lubeck, and other countries and places; by reason whereof divers questions, doubts, and ambiguities may arise and be moved [as to whether the former charters specifying Calais, Holland, &c., will apply to Friesland, &c.]

[2] We, therefore . . . minding . . . that our said merchants . . . shall . . . prosper and grow . . ., of our special grace [&c.] . . . will, ordain, and grant that the fellowship or company of the said Merchants Adventurers, by whatsoever name . . ., shall be from henceforth . . . made, ordained, incorporated, united, and established one perpetual fellowship or community and body politic and corporate in name and deed, and shall have perpetual succession and continuance for ever, and shall be named . . . and incorporated

by the name of Governor and Assistants and Fellowship of Merchants Adventurers of England [the names of the first Governor and Assistants follow]; and all and every other person and persons our subjects, which heretofore have or hath been admitted and allowed and now remain and be free of the fellowship or company of the said Merchants Adventurers lately trading [to] the said countries of Holland [&c.], and all and every other person and persons which at any time hereafter by reason of patrimony or apprenticeship should or ought to have been admitted, received, or made free of the said fellowship or company by the order and rules of the same, be and shall be one perpetual fellowship or community and body corporate . . . and shall be named called or known from henceforth for ever by the said name of Governor and Assistants and Fellowship of Merchants Adventurers of England.

[3] And further We by these presents do ordain [nomination of the first Governor and Assistants with full powers] and also do grant, for Us [&c.], unto the said Governor [&c.] that they and their successors . . . shall and may have perpetual succession and a common seal [with power to sue and be sued in law and acquire property].

[4] And moreover We, for Us [&c.], do by these presents grant to the said Governor [&c.] that they and their successors [&c.] shall and may from time to time for ever hereafter quietly, freely, and lawfully in places convenient and honest assemble themselves together beyond the seas in the countries and towns of Holland, Zealand, Brabant, Flanders, East Friesland, West Friesland, Hamburg, and the territories to the same belonging [&c.], in such part of the same where the said fellowship . . . shall repair and be resident and abiding . . .; And that then and there the said fellowship . . . shall and may . . . name, choose and elect of the said fellowship . . . one person to be Governor of the same . . . and one or more persons to be deputy or deputies . . . and elect four-and-twenty discreet and honest persons of the said fellowship [&c.] to be Assistants to the said Governor and to his deputy [&c.]. [Directions for admitting and removing Assistants and Freemen of the Fellowship in England and Holland, &c.]

[5] And that the said Governor [&c.] for the time being shall . . . have . . . full jurisdiction, power and authority lawfully to rule and govern the same fellowship . . . in all their private causes, suits, quarrels, misdemeanors, offences, and complaints among them in the same countries and towns of Holland [&c.] rising, moved, and to be moved; And to reform, decide, and pacify all manner questions, discords, and variances between themselves and

between them or any of them and other merchant[s] in the said countries . . . and all manner [of] trespasses, hurts, misprisions, excesses, violences, and injuries to merchant strangers in the said foreign countries . . . done by the said merchants of the said fellowship . . . to repair, restore and amend; and like restitutions, reparations, and amends of other merchant strangers . . . to require, ask, and receive.

[6] And further We, for Us [&c.], do by these presents grant [powers to hold courts or congregations of the fellowship in England and Holland &c.; attendance to be compulsory on pain of imprisonment and fine to the fellowship].

[7] And further We, for Us [&c.], will &c. that if any person or persons which now is or at any time hereafter shall be free of the said fellowship . . . shall at any time . . . marry and take to wife any woman born out of this realm of England . . . or shall . . . purchase . . . or have to himself or to any person or persons to his use . . . any lands [&c.], in any of the said parts . . . beyond the seas . . . that then . . . the same person and persons . . . shall be *ipso facto* disfranchised of and from the said fellowship . . .

[8] And moreover we, greatly minding that the discreet, honest, and decent government heretofore used among the Merchants Adventurers lately trading [to] the said countries of Holland [&c.] should be kept . . . by the said Governor [&c.] in as great estimation as in times past [power to enact, confirm and revoke laws and ordinances for the government of the fellowship] . . . so that the said Acts . . . and ordinances be not hurtful to any the rights of our Crown . . . or to the diminution of the commonwealth of this our realm or contrary to any our laws and statutes.

[9] And that the said Governor &c. shall and may at this time and at all times . . . put their said Acts &c., in due execution as well within this our realm as in the said countries and towns of Holland [&c.] upon . . . all and every person and persons being . . . a member or members of the same fellowship . . . and shall and may also compel such as be not of the said fellowship . . . merchants adventurers in any of the said countries . . . to obey and perform all and every the same Acts &c. [on pain of penalties for disobedience] . . . as also that all Mayors [&c.] do . . . support assist and aid the said Governor &c., in the due execution of the said laws [&c.] and in punishing the offenders [provision made for the imprisonment of and levying of fines on offenders].

[10] And also We, for Us [&c.], do give and grant unto the said Governor [&c.] full power and authority that the said Governor [&c.] shall and may choose, ordain, and assign within the

said countries and towns of Holland [&c.] weighers, porters, measurers, ployers, and packers at their liberties and pleasures to serve only for their merchandise without any let . . . of any our officers [&c.].

[11] Furthermore, of our more ample and abundant grace [&c.] we have given [&c.] and by these presents [&c.] do give [&c.] unto the said Governor [&c.] that they and their successors and every of the said fellowship for the time being shall and may from henceforth for ever have [&c.] as well within this our realm [&c.] as in the said countries and towns of Holland [&c.] all and singular such like and the same grants, liberties and franchises, immunities, preeminences, powers, authorities, jurisdictions, privileges, customs, usages, benefits, and other things whatsoever comprised . . . or granted in any letters patent heretofore made by our said right noble Grandfather or any other our noble progenitors or by any other foreign prince [&c.] of the said countries of Holland [&c.] . . .

[12] Provided always that these our letters patent . . . shall not in any wise be prejudicial or hurtful to the Mayor &c. of the State of England . . .

Wherefore we will and command [order for due execution of the premises hereby granted, with proviso for liberty to repeal these letters patent during the reign, in which event all former privileges shall still be enjoyed].

In witness whereof [&c.] Witness the Queen at Westminster, the xviiith day of July [1564]

Per ipsam Reginam.

Patent Roll, 6 *Eliz.* part 12 (No. 1007).

Letters of Marque, 1585.

(a) *Letters Patent to the Lord Admiral, authorizing him to issue letters of reprisal.*

Elizabeth, by the grace of God &c. To our right trusty and well-beloved Councillor, Charles, Lord Howard, Baron of Effingham, . . . our High Admiral of England, Ireland, and Wales &c., greeting. Whereas we have been credibly advertised that the King of Spain hath made stay of late of all the ships, goods, debts of our loving subjects within the realms of Spain and Portugal, and hath caused likewise such of our said subjects as were there for the trade of merchandise to be retained in prison; Whereupon divers of this our realm, merchants, owners, and others, interested in the goods

ad persons so stayed and detained, have made humble suit unto s for letters of reprisal, having no other means by any order of ustice to be yielded to them, and that they may be licensed to ay . . . and take the goods of the subjects of the King of Spain heresoever, upon the seas or in any part without our . . . ominions, to answer the losses and damages by them sustained . . and the reasonable charges they shall be at for the . . . taking ereof; These are therefore to will and require you and by virtue f these presents to authorize you, as our Admiral, to grant your ommissions for the . . . taking of the goods of the subjects of the ing of Spain to such our loving subjects so damnified and in uch manner and form and according to such articles and orders as hall be agreed upon and advised by the Lords and others of our rivy Council, or by any six of them, and set down by them [&c.] n writing under their hands and delivered unto you to remain rith you upon record for your better direction in this cause; and hese &c.

Witness ourself at Westminster, the ninth day of July. Per psam Reginam.

Patent Roll, 27 *Eliz.* part 10 (No. 1263).

(b) *Letter of reprisal to a merchant.*

Charles, Lord Howard, &c. To all Christian people to whom hese presents shall come or otherwise appertain, greeting in our Lord God everlasting: Whereas our Sovereign Lady Elizabeth, by he grace of God Queen of England &c., being credibly advertised &c., reciting information, petition &c., as in the preceding locument], hath by her letters patent bearing date the ixth of July last passed under her Majesty's Great Seal willed and uthorized me as her Majesty's Admiral to grant Commissions or . . . taking of the goods of the subjects of the King of Spain to uch her loving subjects so damnified and in such manner and orm and according to such articles and orders [&c., as in previous locument]; And whereas ten of the Lords and others of her Majesty's Privy Council have agreed upon certain articles and orders in that behalf, and have set down the same in writing under their hands, and have [delivered] the same to me for my direction herein, which articles and orders be and remain with me of record; And whereas further one Robert Kitchyn, of Bristol, merchant, hath made proof before me that certain of his goods monies and merchandise were of late . . . detained in the parts of

Spain by the King's order and authority there, and that the loss and damage unto him by reason of the said stay and seizure arising doth amount to the sum of £6,500; Whereupon the said Robert Kitchyn hath ready equipped, furnished, and victualled to the seas one ship called the Gift of God of Bristol, of the burthen of cl. tons, under the conduct and guiding of John Satchefeilde, captain, and Christopher Birkett, master of the same, and lxxx mariners and men of war, being victualled for four months and furnished with xxiiij cast pieces and fowlers of iron; And hath likewise entered into bond in the Court of the Admiralty that neither the said ship nor any the company thereof shall attempt anything against any of her Majesty's loving subjects or the subjects of any other prince or potentate being in league and amity with her Majesty, but only against the subjects of the King of Spain; [and that the said captain &c. shall bring the ships and goods so to be taken] to some port of this her Majesty's realm of England, and not to break bulk before the Vice-Admiral of the same port be made acquainted therewith or his deputy and other public officers of the same port, and a true inventory taken thereof, and an appraisement made of the same goods by six honest men, inhabitants of the said port; And that the same inventory and appraisement shall be returned unto her Majesty's High Court of the Admiralty aforesaid within six weeks next after ensuing.

Know ye therefore that I, the said Lord Charles Howard, Lord Admiral aforesaid, by virtue of her Majesty's said letters patent to me directed, do license and authorize the said Robert Kitchyn to send unto the seas the said ship . . . and therewith to set upon by force of arms and to take . . . any of the ships or goods of the subjects of the King of Spain in as ample manner as if it were in time of war between her Majesty and the said King of Spain, and the same ships and goods so taken and brought into some port of this realm, and an inventory thereof taken and appraisement made in manner and form aforesaid, then the same ships, goods, and merchandises to keep . . . in his or their possession, and to make sale and dispose thereof in open market or howsoever else, to their best benefit, in as ample manner as at any time heretofore hath been accustomed by way of reprisal, and to have and enjoy the same as lawful prizes . . . so that neither the said Kitchyn, his captain, master, or any other that shall in his own person serve in the ship aforesaid, or otherwise bear charge in the adventure or in any other sort further . . . the said enterprise in manner aforesaid, shall not be reputed or challenged for any offender against her Majesty's laws.

And that also it shall be lawful for any manner of persons to

buy the said ships [&c.] so as is aforesaid taken, appraised, and inventoried . . . in as ample and beneficial manner as if the said ships [&c.] had been come by through the lawful traffic and trade of merchants or as just prizes in the time of war.

Provided always that the said ships [&c.] so taken as before, after an inventory and appraisement made . . . shall be equally divided into three parts, whereof one part to go to the merchants and owners of the ship aforesaid, another part to the victuallers, and the third part to the captain, master, mariners, and soldiers of the said ship.

In witness whereof I have hereunto caused the Great Seal of my office to be affixed. Given at London in the High Court of the Admiralty aforesaid the xth of July, 1585.

High Court of Admiralty, Examplifications, 23.

(c) *Bond taken from grantees of letter of reprisal.*

Mr. Cesar, I am content you make out Commission for reprisal against the King of Spain and his subjects, for goods detained by him and them, unto William Hawkyns, Humfrey Jones, and company, of Plymouth, to set out two ships and one pinnace under such articles and conditions which are set down by the Lords of her Majesty's most honourable Privy Council, and agreed unto by general consent of merchants; and this shall be your sufficient warrant for the same. From the Court at Nonsuch, this 2nd of October, 1585.

Your loving friend,
C. HOWARD.

To Mr. Doctor Cesar, Judge, and Mr. Hareward, Registrar of the High Court of the Admiralty.

Die Martis V° die mensis Octobris, anno domini 1585, coram magistro Iulio Cesare legum doctore, Supreme Curie Admiralitatis Anglie iudice, &c., in edibus suis in Lothbery scituatis, presente me Iohanne Pulford, notario publico &c., comparuit personaliter Iohannes Hawkyns, Civitatis London', Armiger, ac recognovit se debere illustri ac prenobili viro Carolo, Domino Howard, Baroni de Effingham, Domino Magno Admirallo Anglie, summam mille librarum monete Anglie, solvendam eidem Domino Magno Admirallo aut suo certo atturnato, heredibus, vel executoribus suis. Et nisi, &c.

The condition of this recognizance is such, That where Wm. Hawkyns, Humfrey Jones, and company, of Plymouth, are by virtue of a Commission of Reprisal obtained from the above said Lord Admiral authorized to set forth to the seas one ship called the Elizabeth of Plymouth of the burthen of fourscore tons or thereabouts, and a pinnace of xxiiij tons, whereof Thomas Peers goeth for master, with men, ordnance, and victual sufficient for the same service, for the apprehending and taking whatsoever the ships, goods, and merchandises belonging to the subjects of the King of Spain, towards the satisfying and recompensing of certain their goods, monies, and merchandises, with losses and damages by the said arrest of their said goods made in Spain; If therefore the said master, with his ship, pinnace and company, do bring such ships [&c.] as they shall so take . . . to some port of this her Majesty's realm of England as shall be most convenient for them, and [otherwise carry out the regulations stated in the preceding document (b)], and also do answer and pay . . . in the said Court of the Admiralty to the use of the said Lord Admiral the full tenth part of all such ships [&c.] as the said master with his ship, pinnace and company shall take . . . at the seas by virtue of the said Commission at the time of exhibiting of the said inventory and appraisement as aforesaid; and likewise do not attempt any thing against any of her Majesty's loving subjects or the subjects of any other Princes or States being in good league and amity with her Majesty, but only against the subjects of the said King of Spain; That then this recognizance to be void and of no force, or else to remain in full power and virtue.

JOHN HAWKYNS.

Recognitum coram me Iul. Caesare, domino iudice, die et anno suprascriptis. Iul. Caesar.

Admiralty High Court. Letters of Marque: Bonds, &c., Bundle 1.

EXTRACTS FROM THE MINUTE BOOK OF THE DEDHAM CLASSIS, 1582–9.

A note of such things as are agreed upon to be observed at our meetings.

There was a conference had by some of the godly brethren the xxiind of October, 1582, as a preparation to a meeting purposed by them, and to be concluded and agreed upon by the rest who should after be chosen as fit persons for such an assembly. The order whereof was this.

First it was agreed on in that first conference that there should be a day of meeting, wherein some portion of scripture should be handled briefly by the speaker that should be appointed by the consent of the rest . . . the time to be spent therein, and in prayer, to be one hour; the rest of the time to be employed in deciding some profitable questions, if any were propounded by the brethren, or else in conference about other necessary matters, for the furthering of the Gospel and preventing of evil, as far as we might deal in by our callings.

The persons chosen for the assembly are these [13 names, all but one being apparently ministers, follow].

Moreover that at every meeting there be some one of the brethren chosen to be interpreter of that scripture appointed to be handled, and another to be moderator of the whole action, and he to begin and end with prayer.

That none be brought in as one of this company without the general consent of the whole. Silence also to be kept, as well of the meeting as of the matters there dealt in, without it be first signified to the rest. The certain day of meeting to be the first Monday after the first Sunday of every month; and the time appointed to be at eight of the clock in the morning, and so continue till eleven or thereabout.

And that some of these days appointed to meet in be spent in prayer and fasting; and that then admonition be given to any of the brethren, either touching their ministry, doctrine, or life, if anything have been observed or be espied by the brethren necessarily requiring the same. And that there be, upon the days of prayer and fasting, exercise and interpretation of the Word by some of the brethren that shall be chosen and thought meetest for the same.

That the interpreter of the place of scripture, after the action done, depart out from the rest of the brethren, and every man's judgment to be asked of his handling of the said scripture, and the moderator to declare unto him what the brethren judge of it.

That any of the brethren may propound any profitable question to the rest, to be considered of at that present (if time permit) or at the next meeting following.

[There follow the signatures of the 13 persons above-mentioned, and of 6 others, of whom at least 3 were ministers.]

. . . . . .

The 20th June [1589] was our 80 meeting at Erwarton. . . . Thus long continued through God's mercy this blessed meeting,

and now it ended by the malice of Satan. Some cause of it was complaints against us preferred to the B. of London [Aylmer], for which cause I was called up to London and examined of it; but the chiefest cause was the death of some of our brethren and their departure from us to other places. Praised be God for ever.

Commission for Depopulation, August 27, 1607.

James [&c.] To our right trusty and right well-beloved Cousin and Councillor, Thomas, Earl of Exeter, our Lieutenant of the County of Northampton, and to our trusty and well-beloved, Sir Antony Mildmay, Knight [and seven others] greeting. Know ye that We, being given to understand that there are in many parts of our realm of England, and namely in our said County of Northampton, many dwelling-houses pulled down, let to decay, standing void and uninhabited on the grounds that of former times belonged to dwelling-houses dismembered and taken from them, and great quantities of ground heretofore used for arable converted to pasture; by which and many other sinister and corrupt practices and devices our realm is in many parts wasted and depopulated to the grievance of our people and the damage of our estate, and against the ancient common laws and statutes of our realm; . . . Therefore, for the especial trust and confidence by us reposed in your approved fidelities, wisdoms, and circumspections, We have chosen . . . and appointed you to be our Commissioners, and by these presents do give unto you or any five or more of you, Whereof two of you the said Thomas, Earl of Exeter, [and four others] to be two, full power and authority to inquire as well by the oaths of twelve or more lawful men of our said County of Northampton, as well within liberties as without, and by examination of witnesses to be produced or called before you [&c.] by the precept or commandment of you or any two or more of you, as by all other good and lawful ways and means whatsoever as by your wisdoms and discretions shall be thought meet, of all matters . . . specified in certain articles concerning the premises annexed to this our Commission, according to the . . . true meaning of the same articles, and in such manner and form as in and by the same articles is prescribed and appointed; And therefore We command you that at certain days times and places, which you or any such five or more of you as aforesaid shall appoint in this behalf, ye [&c.] do make diligent inquiry . . . upon the premises . . .

[2] And further we will [&c.] that the same inquisition and

inquisitions and examinations and whatsoever you [&c.] shall do in or concerning the premises by virtue of this our Commission, the same shall be by you [&c.] certified unto our Court of Chancery with all convenient speed and at the furthest by the twentieth day of October next coming under the hands and seals of you [&c.] and the hands and seals of them by whom the same inquisition and inquisitions shall be made, together with this our Commission.

[3] And we also command by authority hereof our Sheriff of our said County of Northampton that he shall cause to come before you [&c.] so many able, sufficient, fit, and lawful men of the same County, as well within liberties as without, by whom the truth in the premises may best be known, as you or any two or more of you shall require or command him to inquire of the premises; Willing also and charging and commanding all and singular our Justices of Peace [&c.] and all other our officers, ministers, and subjects to whom it shall appertain to be . . . assisting to you in the execution of this our Commission as they . . . tender our pleasure and will answer to the contrary at their uttermost peril.

In Witness whereof, &c. Witness ourself at Westminster, the seven and twentieth day of August. Per ipsum Regem.

The Articles in this present Commission mentioned annexed unto the same for the instruction of the Commissioners how to proceed in the execution thereof.

1. First you shall inquire and find out what and how many towns, villages, churches, hamlets, boroughs, parishes, dwelling-houses, farms or farmhouses, families, ploughs, or tenancies in the County of Northampton have since the twentieth year of the reign of the late Queen Elizabeth deceased been decayed, wasted, or depopulated, or stand void and without inhabitants; and by whom the same fault hath been committed; when and in what manner; and in whose hands the same now are, whether in the hands of the offenders themselves or in the hands of others; and whether by descent, gift, purchase, or by what other means they came to them; and what number of people and persons were relieved, sustained, and maintained upon and by the same before the said depopulation.

2. Item to inquire [&c.] what quantities of grounds have within the time aforesaid been converted and turned from the use of husbandry and tillage into pasture for sheep and other cattle by means of unlawful enclosures or otherwise; when, and by whom; and in whose hands the same now be; and whether by purchase, descent, gift, or by what other means they came to them.

3. Item to inquire [&c.] what lands and grounds have within the time aforesaid been divided, severed, and taken away by any device . . . from farmhouses, tenancies, or other houses, leaving to the same little or no grounds at all whereby to relieve and succour those that inhabit the same; when and by whom the same was done; and in whose hands the same now are; and by what means as aforesaid.

4. Item to inquire [&c.] what barns, stables, and other out-houses belonging to farms or dwelling-houses have within the time aforesaid been decayed or pulled down . . . within the said County, or for want of the grounds formerly used unto them and now taken away stand void and empty, or are otherwise employed; and by whom, where, and when [&c. as before].

5. Item to inquire of such as keep in their hands divers several farms or occupyings, and do occupy the grounds themselves, and set poor men or others into the dwelling-houses, or else let them stand void.

6. Item to inquire what tenants or farmers have been removed by their landlords out of their dwellings or habitations, and none placed in their room, or else such as are apparently unfit to use or manure grounds, by whom the same was done [&c. as before].

7. Item what highways have been within the time aforesaid by means of any unlawful enclosures stopped up or straightened, where, when, by whom [&c. as before].

The like Commission made for the parts of Kesteven, in the County of Lincoln, and the City of Lincoln, . . . the parts of Lindsey in the [same] County . . . the parts of Holland in the [same] County; for the County of Warwick . . . the County of Leicester . . . the County of Huntingdon . . . the County of Beds. . . . the County of Bucks.

Patent Roll, 5 *Jac. I*, part 26 (No. 1746).

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